

**MINUTES**  
**LEGISLATIVE FINANCE COMMITTEE**  
**December 3-8, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Monday, December 3, 2007, at 9:00 am.

The following LFC members were present on December 3, 2007:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom (for Rhonda King), Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Timothy Z. Jennings, Sue Wilson Beffort, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson, Carlos Cisneros, and Pete Campos. Senators Ben Altamirano, Cisco McSorley, Representatives Jim Trujillo, Kathy McCoy, Richard Berry, Debbie Rodella and Antonio Lujan attended the meeting as guest legislators.

Chairman Smith stated that a budget would be formally adopted by the committee on Saturday, December 8, 2007.

FY07 General Fund Revenue Report and FY08 General Fund Revenue Projections

Senator Smith recalled that a national recession was projected at the recent NCSL Fall Forum and stated that the federal government had announced cutbacks in funding to the state. He noted that revenue estimates may not be considered reliable considering all the downward revisions being made nationally.

DFA Secretary Katherine Miller reported on the expanding state economy. She stated that for FY09, estimated revenue from crude oil has been revised upwards by approximately \$10 million, though natural gas estimates have been revised downwards by the same amount. In addition, she stated that there is less "new money" for FY09 than July and October estimates originally reported. Nonrecurring general fund money available for appropriation has been increased to \$260.5 million for the 2008 legislative session. TRD Secretary Jan Goodwin presented detailed information on revenue estimates for the gross receipts and compensating taxes, personal and corporate income taxes, and state investment earnings.

Senator Smith questioned which year, FY08 or FY09, the executive will calculate the 10 percent reserve requirement. Addressing Representative Varela's questions concerning the final personal income tax rate cut, Ms. Goodwin stated that the final cut will occur in during calendar year 2008, affecting tax revenues in FY08 and FY09. Representative Varela suggested the need to leave some recurring revenue unspent in FY09 to leave room for growth in FY10 and beyond. Otherwise, according to the new revenue estimate, growth will be limited to about 3 percent per year. Representative Varela expressed concerns about the lack of long term expenditure forecasting, and LFC Director David Abbey commented that a five year baseline expenditure forecast will be included in the LFC's budget recommendation.

Representative Moore asked about the film production tax credit, questioning whether the credit should be capped since growth has been higher than expected. Secretary Miller reported that the consensus group is not confident in its corporate income tax forecast because of uncertain growth in credits including the film credit. Secretary Goodwin has not heard plans to cap the film production tax credit. Concerning the effect of tax increment financing, Secretary Miller stated her belief that the state board of finance currently has five tax increment development districts under consideration and agreed that these proposals need more scrutiny. Additionally, she stated that the rating of the state's severance tax bonds has again been upgraded due to conservative issuance standards.

Representative Saavedra requested information on the dollar amount brought into the state by the film industry. Secretary Goodwin responded that she would follow up with the film office concerning the state's economic activity. She stated that personal income tax and gross receipts tax revenues have come into the state as a result of the film industry. Concerning film employee wages, Secretary Miller stated that the average salary of union jobs in the film industry is \$70 to \$100 thousand. She stated that film crews have high wages across the board.

Representative Lundstrom questioned the degree to which SHARE reporting has threatened revenue estimating accuracy. Laird Graeser, DFA Chief Economist, reported that SHARE has not affected the estimates and that reporting processes are improving. Concerning the new pit rule proposed by the Oil Conservation Division, Mr. Graeser stated the consensus group considered the new rule and is not concerned.

Senator Beffort alluded to the effects of Los Alamos job cuts and questioned whether the executive will introduce legislation to jump-start the community to mitigate the impact of layoffs in the area. Secretary Goodwin reported that the executive is working closely with the Economic Development Department and the Department of Workforce Solutions to make layoffs as smooth as possible. She reminded the committee that the U.S. Senate has not yet voted on the LANL budget. Senator Beffort stated that a plan should be in place for that part of the state by the time the 2008 legislative session begins.

Representative Rodella stated that the executive should be cognizant of the effect of further layoffs. Dr. Reynis, Director of the University of New Mexico's Bureau of Business and Economic Research, responded that BBER produced an alternate forecast of the New Mexico economy to anticipate the impact of large job reductions at the state's national laboratories.

#### Department of Finance and Administration

Secretary Katherine Miller presented DFA's FY09 budget request. She also reviewed the mission of the agency and accomplishments from the past year. Secretary Miller noted that DFA's request included a number of expansions including an office of water and wastewater, additional funding for youth mentorship, expansion for operating expenses of the yet to be completed rodeo facility, and staff for a new Administrative Services Unit.

The agency's budget request includes a 7.3 percent increase in total funds and an 11.7 percent increase from the General fund. The base budget constitutes a 3.6 percent increase in total funds and a .9 percent increase from the General fund. The 11 percent increase in the General Fund

includes the following expansion requests:

- \$500 thousand for technical assistance for water infrastructure development
- \$608 thousand for youth mentoring expansion to all counties
- \$700 thousand for the rodeo initiative
- \$1.197 million for an agency services unit including 9 additional FTE
- \$254 thousand for 3.5 additional FTE to address policy development and community development workload.

An FY09 special appropriation request is for \$1 million to reduce the 2010 census undercount of over 35,000 which caused the loss of approximately \$110 million in federal capitated grants. Secretary Miller stated that recovered funds would bring additional revenue to the state that would help fund Medicaid and educational costs.

For the upcoming session, Secretary Miller stated that DFA will continue to balance the budget, take care of the base budget, complete initiatives, and focus on the new initiatives according to priority.

The committee asked questions related to the agency's vacancy rate, implementation of the SHARE system, completion of local public body audits and new initiatives from the Executive that the Legislature can expect. The committee also asked about a request from GSD to create an e-procurement system and how that proposal fits, or doesn't fit, with the SHARE system.

Anthony Armijo, director of the Financial Control Division, responded for the agency concerning SHARE issues and noted that significant progress had been made in fixing the multitude of problems experienced since go-live. Secretary Miller said the major initiative from the Administration would be universal health care, as well as initiatives left over from prior sessions. Members noted that on universal health care, the legislature has yet to see detailed cost data concerning the Administration's proposal. Secretary Miller informed the committee that DFA, in collaboration with the State Auditor, is working on an administrative rule to encourage local public bodies to submit their annual audits in a timely manner. The committee asked why DFA has so many legal contracts and Secretary Miller explained that those were for the various providers under the Civil Legal Services program for low-income people in need of legal representation.

#### General Services Department

Art Jaramillo, Department Secretary, introduced senior management staff and reported the following department accomplishments: Fixed basic operating systems for vendor payments and accounts receivable; redesigned rate scales, assisted agencies in understanding rates, analyzed the soundness of risk funds, revamped financial management risk units, and increased employee's financial expertise, created a civil workplace with a productive and cooperative workforce with a customer service priority and increased efficiency and timeliness while maximizing cost savings for agencies.

The secretary stated that the FY09 request reflects the understaffing and under-funding which has plagued the agency for the past 10 years. Expectations for the agency remain high.

The secretary presented a prioritized list detailing the agency's extensive expansion requests:

- \$1.530 million including 15 FTE for Strategic Sourcing at the State Purchasing Division
- \$500 thousand for e-procurement (paperless) procurement system
- \$760.8 thousand including 12 FTE to strengthen group benefits bureau staffing
- \$1.327 million including 9 FTE to create technology & systems support bureau
- \$86.7 thousand for a Government energy efficiency coordinator (a Governor's Initiative)
- \$181.1 thousand including 3 FTE to centralize GSD Customer Service Representatives
- \$147.7 thousand including 2 FTE for permanent pilot positions at the Air Services Bureau
- \$895 thousand for hybrid vehicle incremental costs which constitute 25-30 percent of the agency fleet
- \$115.3 thousand for additional security at state office campuses
- \$183 thousand including 3 FTE for property control division staffing
- \$750 thousand for an office space lease in Santa Fe to accommodate major building renovations.

Mr. Jaramillo clarified that for risk management, GSD covers both state employees and public boards, and stated that the number one expansion request was for an e-procurement/strategic sourcing initiative in the Purchasing Division. He also noted the need for additional staff to keep up with the increasing demands in the Risk Management Division.

Members asked questions about the status of the agency's FY05 and FY06 audits, whether GSD could realistically expect to fill all of the expansion requests it made for FY09, and the agency's historically high vacancy rate. Members also noted that, with declining revenues, it generally expected agencies to come in with requests for increases to base budgets of no more than 6 to 10%. The committee said that when it decided to take the IT and Communications Divisions from GSD and create a new Department of Information Technology, it expected state government would shrink, not significantly increase as proposed by GSD. The committee asked about the level of general fund subsidization of aircraft services.

Secretary Jaramillo responded that he was confident he could fill any expansion positions approved by the legislature. However, he acknowledged the agency's high vacancy rate and the difficulty the agency has had in filling its existing positions. The Secretary noted that the FY05 audit was completed in November, 2007 and that the FY06 audit is about 75% complete. He noted that the agency has proposed to DFA, an increase in salaries for the traditionally difficult to fill janitorial and cleaning positions in the Building Services Division. The 10% increase, if approved by DFA, would be retroactive to July 2007 and the positions are currently benefiting from the 10% increase pending DFA final approval.

#### Department of Public Safety (790)

John Denko, Secretary, Chief Faron Segotta, Deputy Secretary of Operations, and Paul Cook Deputy Secretary of Administration, presented the agency's FY09 budget request. The secretary reported that alcohol related fatalities were down 20 percent over FY06; hazardous moving violations increased by 19 percent; and safety check operations also increased. He reported the following budget highlights: General Service Department increases, renewable energy costs, and \$1.6 million requested for state police commissioned officers overtime costs.

Representative Varela had questions concerning the department's upper level salaries. The

secretary stated the DWI and Drug czar positions are executive positions, that his salary is \$115 thousand, Paul Cook's salary is \$95 thousand, and Chief Faron Segotta's salary is \$90 thousand.

The base request represented an increase of 8.6 percent over FY08. The department applied a 6.8 vacancy rate for the Law Enforcement Program and a 5.6 percent vacancy rate for Program Support. Increased vacancies were reported in the patrol and forensic division.

Secretary Denko stated that the General Services Division is currently conducting an analysis to determine the adequacy of the current forensic laboratory building. August or September, 2009 has been slated for completion of building modifications. Five DNA analysts and seven chemists have been hired though six positions remain to be filled, in addition to three analyst positions. Representative Varela noted 96 vacancies on the TOOL report. Mr. Cook stated that recruitment remains difficult, not just in the state, but throughout the nation and that the problem has been ongoing for the last couple of years. Retaining and recruiting continues to be a problem as other municipalities reportedly match state police salary increases. As a result, the state police are gradually regressing in terms of the number of their FTE. Representative Varela questioned whether hiring incentives were in place. The department's FY09 budget request includes an expansion for pay incentives for officers in rural areas. State police, motor transportation division, and special investigation division are not asking for additional positions as they can't fill their current positions. Regarding the Village of Pecos, it was stated that compensation should be given to assist rural areas.

Senator Carraro questioned whether new state police officers are required to remain with the state police for a certain time period. Chief Segotta responded that attempts to contract with officers resulted in low employee morale, hiring difficulties, and legal difficulties enforcing contracts. Currently, contracts are tied to bonuses, but are not part of the hiring process. Senator Carraro referenced prestige over pay as an incentive to become a state police officer which isn't a factor any longer; pay now trumps prestige.

Representative Rodella stated that the reduction in alcohol related fatalities are the result of the state's efforts, and not just those of the department. She requested the following information: DWI conviction rates; the impact of efforts to reduce methamphetamine labs; an update on the Automated Fingerprint Identification System (AFIS) in Santa Fe; and information regarding laptop computers in Computer Aided Dispatch. Concerning Computer Aided Dispatch, the program is reportedly in the last stages of completion though \$700 thousand is needed for the completion of the project and to maintain connectivity. Representative Rodella stated that Espanola has outgrown its State Police district office. Chief Segotta responded that offices are updated in terms of most need. Representative Rodella voiced her concern over the state police's 90 commissioned officer vacancies, and requested vacancy information from the past year. An estimated 4 to 4.5 FTE are lost per month on average, and a loophole within Public Employee Retirement Association Municipal Plan 5 has been identified and discussed with Director Abbey.

Representative Lundstrom questioned the request for additional transportation inspectors, which could take up to two years. She voiced concerns over crime labs. Representative Bratton questioned whether an agreement has been entered into for the crime lab facility in Hobbs. Mr. Cook stated that the architect is supposed to start work with completion expected by the middle of

January. As to the delay, Mr. Cook referenced communications, General Service Department assessment, contract problems, and the need for additional funds totaling \$500 thousand. Representative Bratton expressed concern over recruitment failures and suggested that persons accepted into the agency be responsible for their own training costs through years of service, or monetarily if they leave the department.

Senator McSorley questioned vacancy rates and associated costs for DNA analysts. The secretary responded that analysts must pass proficiencies for which training is provided in-house. Mr. Cook stated that by the end of January, seven of the eleven positions will be filled. In regard to a performance measure concerning vacancies within the DNA department, the Senator requested that comparisons with other states be provided for next year's hearing. Mr. Cook stated that starting pay is \$44/hour gross salary for DNA analysts, roughly \$70,000 year, for persons with a bachelors and/or master's degree.

Senator Beffort stated that increased enforcement efforts would result in increased tax revenue. Deputy Director Mark Rowley, responded that in order to keep five 24-hour facilities open with adequate staff, 25 additional FTE would be needed—18 inspectors and 7 police officers with costs projected at approximately \$2 million. He stated that until present vacancies are filled, perhaps next year, increases could not be justified in terms of the number of FTE.

Representative Trujillo expressed concern over academy drop-outs and officer retention problems. He suggested adjunct police officer training through community colleges to provide preliminary officer training as a bridge to the police academy. Secretary Denko referenced criminal justice programs currently in place in community colleges in relation to officer training, and expressed his support of the suggestion. He promised to discuss the matter with the secretary of higher education, noting that a program of this type would be beneficial to both community colleges and the community at large. Chief Segotta stated that police academy dropouts quit the program for a variety of reasons, and not usually due to academic or other testing failures.

Representative Salazar questioned communication capabilities in rural areas. Chief Segotta stated that in addition to radio connectivity, officers have been issued laptops boasting satellite capability, ensuring consistent and reliable communications.

Representative Varela noted that the department audit will not be ready by Dec. 15<sup>th</sup> due to difficulties obtaining necessary reports and updated information within the SHARE system. The Representative requested the department's November budget status report. Representative Varela recommended caution in terms of department budget transfers as the budget for personnel services and benefits is lacking as it is. Senator Smith stated that monetarily, recruitment will continue to be an issue for the department if they continue to pay officer overtime, along with additional fuel and other costs. Senator Smith noted the committee's concern over highway dollars and the lack of federal funding, stating that the state will have to find its own revenue sources, perhaps from increased inspections and stricter enforcement at port of entries throughout the state. Secretary Denko stated that legislation requiring municipalities to have the same retirement regulations as the State Police would help retain officers.

#### Taxation and Revenue Department

Jan Goodwin, Cabinet Secretary, presented the budget request for the department and provided an update on recent initiatives. She reported the delinquent tax collection initiative, established in 2003, has met or exceeded all fiscal year goals and brought a 30 to 1 return on investment. The department has begun an initiative to centralize the issuance of driver's licenses statewide.

The department's base budget request includes an increase of 2.3 percent from the general fund, and an overall increase of 1.3 percent over the FY08 operating budget. Expansion requests total \$3.2 million and include twelve expansion items.

Senator Rawson stated that the MVD Las Cruces office needs to be expanded. The MVD facility issues have "gotten out of hand" despite the administration's knowledge of the problem. He stated that resources don't get to Las Cruces, that wait times at the MVD are about 1 hour and 15 minutes, and that annual renewals cannot be processed by the Las Cruces facility.

Senator Jennings questioned the initiative concerning the centralized issuance of driver's licenses. He stated that the additional requirements for senior citizens were unnecessary and inconvenient, that issues and problems would arise from mailing out driver's licenses, and that the entire initiative would not be well received by the public.

Representative McCoy asked about the status of the MVD proposal to check out-of-state applicants for DWI convictions. Secretary Goodwin noted that statute changes from the last legislative session have been placed in effect. Senator McCoy raised concerns about the issuance of driver's licenses to illegal immigrants. Secretary Goodwin informed the committee that the state issues driver's licenses to foreign nationals, but the agency cannot verify the immigration status of these applicants.

Representative Saavedra thanked the secretary and staff for their hard work, noting that the department brings in a lot of money to the state.

Representative Trujillo also expressed concerns about the issuance of driver's licenses for persons in the country illegally. The Secretary responded that the purpose of the policy is to decrease the number of uninsured drivers, a correlation that the Representative questioned. Secretary Goodwin stated that there is a correlation as a person with a driver's license is more likely to register their vehicle, carry insurance, know the rules of the road, have their current address on file and are less likely to leave the scene of a crime. Representative Trujillo stated that initiative shouldn't have been approved and questioned whether legislation could be introduced to prohibit issuing to illegal immigrants.

In response to Representative Varela, Secretary Goodwin stated that the department's 2007 audit is well underway, though it will not be submitted on time. Administrative Services Division director Wanda Helms stated that the department met with DFA to get appropriate documents and has submitted information to the auditor, though they are still working on the general ledger. She stated that the department has received qualified opinions on their audits for the past twenty years. Senator Carraro requested information on the correlation between driver's licenses and insurance retention rates. The Secretary referred to a dramatic increase of insured vehicles that has occurred in recent years, and stated that the effect cannot be discounted, though the department's

information system doesn't track insurance retention rates. Secretary Goodwin stated that all residents of the state for thirty or more days must register their vehicles, and that illegal immigrants must prove residence to be eligible for driver's licenses. Senator Carraro alluded to the dangers of granting driver's licenses to illegal immigrants as they make persons seem legal. He noted the need to revisit the policy and the need for correct statistical data to determine the impact of the legislation. He requested the department's cooperation in providing information.

Senator Smith referred to the difficulty of the issue and stated that border issues have been ignored for far too long. Representative Varela requested information on a central assessment of cable companies for property tax purposes by next week.

The meeting adjourned at 5:15 p.m.

#### **December 4, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Tuesday, December 4, 2007, at 9:00 am.

The following LFC members were present on December 4, 2007:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom (for Rhonda King), Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra; and Senators Timothy Z. Jennings, Sue Wilson Beffort, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson, Carlos Cisneros, and Pete Campos. Senators Ben Altamirano, Cisco McSorley, DeDe Feldman Representatives Ben Lujan, Larry Larrañaga, Jim Trujillo, Kathy McCoy, Danice Picraux, Mimi Stewart and Antonio Lujan attended the meeting as guest legislators.

#### Children, Youth and Families Department

CYFD Secretary Dorian Dodson presented the department's budget request, noting a general fund increase of 4.72 percent but only an overall 1.98 percent increase in the department's budget. The base request funds 2,040.1 FTE with a self imposed vacancy rate of 6.49 percent. Secretary Dodson stated that the Family Services Division, with the fewest employees, has the largest budget of the four divisions supporting child care, Pre-Kindergarten, and domestic violence. The Juvenile Justice services are funded almost entirely with general fund and healthcare accounts for a significant increase in the general fund requested. The Protective Service Division requested general fund to replace federal funds and support increased care and support for foster and adoptive children. Secretary Dodson itemized critical base budget funding increases:

- Conversion of 36 term FTE to permanent; promoting stability and retention.
- \$5.2 million for Juvenile Justice programs, including \$2.8 million for salaries and benefits, \$1.9 million for 26 new medical FTE; \$1.7 million for contracted specialty medical services; and \$736.9 thousand to fund increased property lease costs and GSD rate adjustments
- \$2.7 million for Protective Services, including \$2 million for care and support of foster and adoptive children and \$669 thousand for other General Service Department rate increases



- \$1 million for Program Support to fund an IT replacement strategy.

The Secretary noted that the budget request changed since the budget was submitted in September. The department identified a number of expansion items as nonrecurring and requested the items as special appropriation requests including \$1.1 million for JJS regional model implementation, \$471 thousand for an imaging system to preserve adoption case files, and \$380 thousand for 42 new vehicles. The secretary expressed concern for vehicle reliability and safety of fieldworkers in remote areas.

Secretary Dodson updated the committee on Capital Project Appropriations from 2003-2007 and how the agency has made the best use of capital fund monies, usually to finish, replace, or update facilities, and reiterated the need for basic facility infrastructure. The Secretary noted the improvements still needed at the Youth Diagnostic and Development Center (YDDC) and the J. Paul Taylor Center in the FY09 capital project request.

The Secretary reviewed the supplemental funding requests including \$1.9 million for care and support caseload increases; \$436 thousand for safety and security electronic systems, referencing a recent scare which required intervention by the SWAT team and noted twenty-three deaths nationwide among state children's services department staff; \$1.9 million to replace federal funding; and \$997.9 for expenditures incurred but disallowed in a recent foster care (Title IV-E) audit of training costs. The Secretary noted the federal trend of reinterpreting federal regulations and disallowing expenditures previously eligible for reimbursement.

Secretary Dodson updated the committee on performance, reviewed FY06 and FY07 year-end results, FY08 targets and FY09 requested adjustments. The Secretary stated despite major progress made additional work remains. Regarding American Civil Liberty union (ACLU) litigation against the department; the Secretary noted that the allegations were both unfair and unfortunate. The department will continue to adhere to the agreement made with the ACLU and will continue to make progress.

Representative Lundstrom questioned why juvenile justice community services were in the Family Services Division and whether the Missouri model will be retrofitted into the existing system. Secretary Dodson stated that community and behavioral health expertise are located in the Family Services Division and how the department channels all of these types of services to one location rather than disbursing services throughout the department. Concerning the Missouri model, the Secretary stated that New Mexico's correctional model is no longer considered a best practice model. Staffs from Missouri feel confident that New Mexico can change to a rehabilitative model. CYFD is working on performance measures to reflect the policy changes and recognizes that it will require time to see improved performance, such as lower re-adjudication rates. Representative Lundstrom stated that the committee should recognize the steps taken and the progress made. Secretary Dodson offered to develop a "cross-walk" to show steps taken to enact the new model.

Senator Wilson Beffort noted that the department didn't request capital improvement funds for Missouri model implementation and asks whether the department is going to renovate the J. Paul Taylor facility or replace YDDC with a new facility in Los Lunas and suggests that all necessary funds to implement the Missouri model be made available. The Secretary responded that she is

pleased with legislative support for the model and recognizes that it requires increased funding. Senator Beffort asks about funding for the TEACH and TTAP programs and the Secretary responds that the budget request replaces federal funds.

Representative Lujan expressed concern over the ACLU lawsuit and requested additional information and the potential for negotiation. In response, Secretary Dodson stated that the ACLU believes that CYFD is not in compliance with a 4 year contract signed by former CYFD Secretary Mary-Dale Bolson. CYFD believes that they are in compliance with the agreement and is in talks with the ACLU. There is no substantive disagreement, though the two entities disagree in terms of whether or not progress/change is being made. The Secretary reiterated that the department is in compliance.

Representative Varela notes how the department has improved performance outcomes regarding client re-adjudications and staff turnover rates. The Representative questioned if recruitment and turnover are a problem for juvenile corrections officers (JCO). Dodson stated that the department is in good shape as far as employment and that the Juvenile Justice Division has an overall vacancy rate of 5.8 percent, but noted that in FY07 JCO turnover spiked due to the closure of the Springer facility. Dodson stated that caseworker turnover has improved since the State Personnel Office allowed related degrees to be accepted. In addition to employee classification, Ms. Dodson stated that a concern for safety has impacted the turnover rate as determined by exit interviews with departing employees. Representative Varela expressed support for a 20 year retirement for juvenile corrections officers, which the Secretary stated is an incentive for some. Representative Varela questions the department's IT request and planned replacement of FACTS, to which the Secretary stated that the department is working with the Department of Information Technology (DoIT) including Secretary Roy Soto.

Representative Moore voiced concern for foster children and their Medicaid eligibility, and questioned whether the department provides transition coverage for foster parents who adopt children. The secretary responded that the department provides subsidies to address medical needs for the adoptive program, and that she would look into the specific case raised by the Representative.

Representative Trujillo, a member of the Juvenile Justice Advisory Council (JJAC) in Santa Fe, asked how the Juvenile Justice Commission differs from JJAC and the details behind the \$3.2 million expansion request. Secretary Dodson responded that JJAC boards now number seven and serve non-adjudicated clients in community-based services; board members include psychiatrists, professors, etc. She stated that community buy-in is crucial to these programs and provides additional resources and funding. She stated that the \$3.2 million expansion request recommended by the JJ Commission would provide funds for a new regional facility, staff recruitment and retention, education, library upgrades, additional teachers, facility accreditation, funds to help implement the Missouri model, facility softening of the J. Paul Taylor facility and medical software.

Representative Bratton questioned the secretary on the number of foster children in the system and the reimbursement rate paid to foster parents. The Secretary responded that there are 2400 children in foster care but that a spike has occurred in the last few months. Foster parent reimbursements start at \$483 per month and increase with the level of client care needed. The

stated rate does not include a proposed \$25 monthly increase in the FY09 budget. The Representative expressed concern that children are bounced back and forth from foster care to their birth parents, and how child development can be negatively impacted when unfit parents are involved. The Representative questioned how the department would fund future operating costs if it received the nonrecurring request to purchase 42 additional vehicles; he asked if other funding sources could be found. The Secretary stated that vehicles are leased rather than purchased, and that operational costs should have been part of the base budget rather than a supplemental request. Senator Smith clarified that the department probably requested the funds as nonrecurring because there was a better chance of receiving funding. Deputy Secretary Dunbar stated that the chair is correct and that funding for fuel and other associated costs were not factored into the request. The Secretary stated that the need, though perhaps not the funding, is recurring. Representative Bratton requested that the issue be flagged.

In response to Senator Jennings' question about Pre-kindergarten outcomes, standards and structure, Secretary Dodson discussed how Rutgers University's is conducting an evaluation of the Pre-K program. Secretary Dodson also discussed how several of the child care providers are nationally accredited which has increased the cost of child care. The Senator suggested we should have measures that track children over a period of time, between facilities and include provider performance. Secretary Dodson promised to follow up with additional information. The Senator asked about income eligibility in the child care program and whether the department is taking money out of child care to fund Pre-K. Secretary Dodson responded that the income eligibility is 165 percent of the federal poverty level (FPL) but the department has requested funds to increase to 200 percent. The Senator asked about the impact the new minimum wage is having on providers and also asked about the Executive Order requiring firms which contract with the State to provide health care insurance. Secretary Dodson responded that the department plans to study child care over the next year. Senator Jennings suggested that there are unintended consequences of initiatives like the minimum wage and the Executive Order, including fewer child care slots, job cuts and providers who close shop or go underground and suggests the possibility that the State could face lawsuits if providers aren't adequately compensated.

Representative McCoy voiced concern about separating children from parents and then attempts to reunify them. Representative McCoy suggests that there are many ready and willing adoptive parents that would love to give permanent homes to these children. The Secretary stated that extraordinary efforts are made to unify families as required by federal regulation and CYFD policy. She stated that child trauma will be the subject of a debate at the 15<sup>th</sup> annual Children's Law Institute 2008 conference.

Senator Smith noted that during a visit to the Apple Tree child care facility he witnessed a phenomenal rate of 15 of 17 employees, mainly single parents, who are advancing their education. He pointed to the success Apple Tree was achieving in an area of the state that has limited resources. Concerning health insurance, the chairman recognized additional costs would be funded through CYFD, but that the executive budget should support what the executive has deemed an important issue. He encouraged Ms. Dodson to contact the executive in support of health insurance for child care providers, and commended the Secretary for her conscientious effort to work with the legislature and expressed the appreciation of the legislative body. The secretary invited the committee to observe or participate in any department activities.

### Human Services Department

Pam Hyde, Cabinet Secretary, introduced the department staff and presented the budget. The department has added the Behavioral Health Services Division totaling four department divisions, and funds 14 state agencies, every school district and a number of Native American pueblos. Base Budget increases address rent issues, IT utilization costs and contractual services including CSED hearing officers. The department's use of cash assistance carry-forward has freed up funds to decrease GF going to cash assistance; increased by 15 percent, the "standard of need" for the first time since 1995; and has increased employment retention and clothing allowances. A food stamp "penalty" was included in the base and it was reported that penalties are recurring and happen every year.

The agency requested reauthorization language, and their expansion requests include:

- \$7.1 million (\$3 million GF) for 100 ISD FTE eligibility workers
- \$383.3 million (\$191.9 million GF) for 9 for Insure New Mexico! FTE And 8 Medical Assistance Program FTE
- \$620.6 million (\$251.9 million GF) 8 MAD FTE and 2 OIG FTE
- \$503.6 million (\$171.2 million GF) for 7 CSED FTE.

Behavioral health services expansion requests, include but are not limited to:

- \$2.5 million GF and \$5.9 million for capital for a Los Lunas Substance Abuse Treatment and Training Center
- \$1.5 million GF for Post traumatic stress disorder for veterans and families
- \$1.8 million for Crisis Services expansion
- \$1 million to expand a program for supportive housing
- \$270 thousand for local collaborative support
- \$3.1 million for behavioral health services division federal grant replacement
- \$4.3 million for Behavioral Health Provider rate equalization.

Medical Assistance Division Program Base will cost \$140 million to continue the program and includes:

- Enrollment growth
- Federal match (FMAP) composite reduced by .3 percent to 70.92 percent for regular Medicaid and 79.65 percent for SCHIP
- Program Utilization Growth including no growth in Disabled and Elderly (D&E) and 8.2 percent growth in PCO
- No new provider rate increases
- Coordinated long Term Services beginning July 1, 2008
- Substance abuse state plan amendment beginning July 1, 2008
- No program expansion beyond children and adult enrollment growth already noted.

The \$140 million requested includes \$8.4 million in FMAP losses; \$68 million for enrollment increases; \$4.5 million for substance abuse state plan amendment; \$37.8 million in normal growth in utilization and costs; \$21.8 million in under-funding of the FY08 base. The agency is considering a supplemental request to cover the \$21.8 million deficit.

The secretary stated that the department's budget could be reduced by cutting provider rates, benefits and services, or enrollment outreach.

The Secretary reminded the committee of the governor's health insurance policy, HealthSOLUTIONS New Mexico, which contains the following components: insurance reform; coverage mechanisms and participation; health coverage authority; 21<sup>st</sup> century information technology; and joint external evaluation to assess progress. Mathematica has produced analysis based on the following assumptions that drive cost and revenue estimates: different uses of CPS data; adjustments for undercounting of Medicaid enrollees; different assumptions about income disregards; different starting years and 100 percent take-up versus 95 percent take-up.

Concerning Mathematica cost analysis, Secretary Hyde stated a full presentation will be presented by Mathematica on December 17<sup>th</sup> at 9:30 a.m., to which all legislators have been invited by LCS. She reiterated that she will be present at that presentation, and is today presenting Mathematica analysis on Medicaid only. She stated that 48,000 children over the next five years will be eligible but not enrolled in Medicaid or SCHIP, and will cost the state \$44 million; the 211,000 adults will cost the state \$545 million.

She stated that the new provisions would generate \$136 million annually from full-time employers not providing health insurance in firms with 6 or more full time workers and \$14.2 million annually for part-time workers and \$12 million for full time workers in firms with less than 6 employees and \$3.2 million for part time workers. The increase in premium taxes collected due to additional premiums would be \$21 million annually.

The secretary stated that the Governor's proposal requires 5 percent more than current spending levels from the general fund, and that revenues received by the proposal would cover additional costs. She stated that \$75 million in increased costs above the base are due to growth projected for 2010 (compared to \$56 million reported in costs for the current system); revenues are projected at \$200 million. For FY10, total Medicaid health care spending is projected at \$954.2 million including the \$75 million in increased costs. The following year, the projected cost is \$1.3 billion.

In response to Representative Sandoval's questions concerning Value Options, Secretary Hyde responded that Value Options has begun to approve fewer out of home services and that the department is concerned about that utilization shift. The department has begun pilot projects to bring up community service providers for high risk youth. Linda Roebuck responded that the state spends 72 percent of its dollars on youth in residential care. Representative Sandoval stated his concern that the department is not increasing funding for LIHEAP. The Secretary responded that in prior years, significant increases in tax revenue resulted in increases in tax cuts and funding for programs such as LIHEAP, though those increases have not occurred this year. She stated that the governor's budget will make the final decision regarding his priorities given the revenue available; the program is not a budget priority for HSD. The Representative inquired about an autism report required by SB197, to which Secretary Hyde stated that a draft form had been completed and will be made available before the session. She stated that she would provide information concerning the LIHEAP program and will take the Representative's concerns to the executive.

In response to Senator Carraro, Secretary Hyde stated that the HealthSolutions will be able to be adequately discussed within the upcoming thirty day session. The program will be phased in and will require additional discussion and funding adjustment for subsequent phases. She stated that the program's projections will not need adjustment. Senator Carraro stated his disagreement with parts of the program proposal but stated his comfort with the Secretary's ability to implement the program. In terms of Behavioral health grants, the secretary stated that federal dollars are constantly being applied and some have been accepted. FMAP losses will even out after FY08 and those federal changes having to do with the SCHIP program will not affect FY09. The secretary stated that the department will remain conscious of possibilities for federal funding.

Concerning children that are eligible but not enrolled, Secretary Hyde stated that projections for FY08-09 anticipate increases in enrollment. Senator Carraro expressed the need to enroll children with the most need as a priority. The Secretary referred to difficulties in determining need for children and advances in enrolling adults with the most need. The Senator requested statistics concerning persons with the most need, to which the secretary agreed to provide. Secretary Hyde stated that during FY07-08, the legislature provided significant rate increases for providers. Referring to the Medicaid fee schedule provided in the presentation document, the Secretary stated that New Mexico, in comparison to surrounding states, generally pays higher rates to providers, and in some cases, pays higher than commercial rates. The Secretary stated that rates are no longer a factor in losing providers. The secretary proposed a requirement for persons who can afford the program to enroll and get coverage. Determining non-enrolled eligible persons is difficult, and enforced enrollment could be achieved by prohibiting items such as driver's licenses and professional certifications, though a proposal has yet to be determined. A date will be determined, by which persons would be required to show proof of enrollment. The Secretary stated that "doing nothing" refers to the state remaining the same in terms of health care coverage, and allowing the number of uninsured persons to continue.

Senator Beffort stated that firms with fewer than 6 persons will not remain exempt forever, and stated that there are a huge number of companies with fewer than 6 employees who would be affected. Secretary Hyde stated that community rating is not yet supported by the department, and reiterated that lower fees would be paid for part-time versus full-time employees. Senator Beffort questioned employee contributions to health insurance programs and stated that lower income employees should be provided 100% of insurance costs as opposed to higher income employees. The Senator requested details concerning how numbers were computed by the department and Mathematica, and questioned outreach efforts.

Representative Lundstrom expressed concern about losing providers in rural New Mexico and questioned the inflation factors concerning funding shortfalls. Representative Larrañaga questioned whether SCHIP resolution will be continued. The Secretary responded that growth for kids and low income adults is continuing. Concerning assumptions regarding cost containment of the program, the secretary stated that details would be discussed during their presentation on the 17<sup>th</sup>.

Senator Smith stated that the New Mexico legislature is not a full time legislature and that he is concerned about out-year costs. He expressed discomfort concerning the universal health insurance proposal and concern over federal funds. He stated that additional work is needed from

the both HSD and Mathematica to quiet concerns and establish a comfort level concerning the program. He noted that the issue has been viewed in a prematurely favorable light.

#### Department of Health

Secretary Alfredo Vigil introduced Deputy Secretary for Facilities Katrina Hotrum and Deputy Secretary for Finance and Administration Duffy Rodriguez, and referred to the department's organization chart, 4,000 employees, mission, and activities. Duffy Rodriguez reported an overall base budget increase of 1.8 percent over FY08 and presented the department's budget request constituting a 3.4 percent increase in the general fund. The total request, including expansion totals \$21 million, and represents a 3.9 percent increase over the FY08 budget. Ms. Rodriguez stated that the request is population driven and that base budget increases are needed to maintain the department's current service levels. A major challenge faced by the department is that much of their federal, as well as state funding is earmarked for specific programs which hampers DOH's ability to shift funds to meet changing priorities. In addition, DOH health care facilities are seeing an increasing number of patients with complex physical and mental health issues.

The base budget increase totals \$9.7 million and includes the following items:

- \$1 million for increased program costs for tuberculosis
- \$500 thousand for increased cost of contraceptives
- \$289 thousand for billing and electronic health records software maintenance
- \$210 thousand for the relocation of public health pharmacy
- \$910 thousand for breast and cervical cancer screening
- \$115 for E-Vitals software license maintenance
- \$98.6 thousand for health emergency management core staff
- \$1 million for population growth-dependent disease identification & control activities at the state scientific lab
- \$244 thousand for behavioral health provider rate equalization
- \$747 thousand for developmental disabilities support services personnel costs and benefits.
- \$2 million for developmental disabilities support services to address a change in the FMAP rate
- \$877 thousand for health facilities inspections
- \$1.6 million for GSD agency-wide rate increase.

The department's expansion request included the following items:

- \$300 thousand for rural and border health workforce enhancement
- \$100 thousand for an immunization marketing campaign
- \$1.5 million for targeted childhood immunization efforts
- \$350 thousand to expand cancer clinical trials network
- \$1 million for obesity prevention plan implementation
- \$1.3 million to fund parity for school-based health centers
- \$500 thousand for nurse advice line health services
- \$500 thousand for Native American health councils
- \$257 thousand for infectious disease epidemiology
- \$2.5 million for the DD waiver
- \$1 million to expand autism evaluation, respite, and adaptive skill building services

- \$1 million for the family, infant, and toddler program
- \$1.5 million to expand Turquoise Lodge drug treatment services
- \$262 thousand for youth violence prevention
- \$157 thousand to expand vital records staffing.

Representative Varela questioned the Turquoise Lodge expansion request for which Human Services Department is seeking funds to establish drug treatment services in Los Lunas. Ms. Rodriguez stated the department is responsible for medical detoxification while HSD focuses on social detoxification. HSD Deputy Secretary Katie Falls responded that the expansion request is for a substance abuse treatment facility in Los Lunas, which is being built as the department receives the appropriation. The Turquoise Lodge is funded by the DOH, which also runs a separate operation in Los Lunas for the developmentally disabled. In response to a question about a newspaper article reporting that Fort Bayard Medical Center was on a federal list of the worst nursing homes, Deputy Secretary Katrina Hotrum stated that Ft. Bayard is a poor performing facility and is not in compliance, though steps have been taken to improve the quality of care and agreements have been entered into with the U.S. Department of Justice to improve the quality of care in the facility.

Ms. Hotrum also noted that CMS's recent list of best to worst facilities in New Mexico ranked Ft. Bayard 26 out of 72, which is a ranking improvement. Services provided at Fort Bayard facility include long term nursing home care for individuals requiring an increased level of care and short term rehabilitation. Ms. Hotrum reported glitches in building a new facility and stated the need to draft legislation to ratify the lease agreement with the county which will be presented during the session.

For the current year, the agency is requesting 46 additional FTEs, not including the conversion of temporary employees to permanent. Ms. Rodriguez stated that the conversion would address recruitment difficulties. Last year the agency reported 533 vacancies; this year 480 vacancies were reported by the agency, a figure which may include positions for which paperwork is pending. The department implemented a 6 percent vacancy rate and reported an 11 percent vacancy rate as funding is not available to fill all positions. Ms. Hotrum stated that the agency turns over 300 percent of its employees in some health care facilities, citing that the department is essentially working with an all new staff every quarter. Concerning Representative Varela's questions, Ms. Rodriguez stated that retainment issues aren't generally addressed by the agency as the focus is generally on recruitment and working with the SPO. In response to a question about the status of the agency's financial statement audit, Ms. Rodriguez stated that the department's audit will not meet the audit deadline though the state auditor has been notified of the problem. Ms. Rodriguez expressed hope that the audit will be completed during the session, and Representative Varela asked Greg Geisler, LFC Analyst to monitor the progress.

Senator Griego addressed the state's nurse shortage and cited persons in rehab facilities who want to enter the nursing field, yet due to felony records, are unable to begin the nursing program; Griego requested that requirements be set aside. Secretary Vigil responded that slots in nursing schools are highly competitive and that the requirement might be used to weed out applicants. Ms. Hotrum cited a law—the health care provider screen act—which prevents persons with certain convictions from licensure and stated that schools might hold the same qualifications. She stated



that the DOH runs a criminal history care giver program and has a committee which reviews appeals under for special circumstances. Griego stated that constituents in Northern New Mexico who are in recovery clinics and require methadone must travel to Santa Fe for medications, and expressed interest in opening a methadone clinic in Las Vegas. Secretary Vigil cited administration and special infrastructure difficulties and noted that the system is evolving using other medications that may not require the same controls required for methadone. Concerning Value Options, Senator Griego stated that small facilities have difficulties with overhead fees charged by Value Options. Ms. Falls stated that she is unaware of additional fees but will look into the issue.

Representative Trujillo asked about DOH disease prevention activities, for which Secretary Vigil cited a wide range of prevention programs covering a wide range of health problems. The Representative stated that obesity is a huge problem in New Mexico, to which the Secretary responded that prevention programs are having difficulties nationwide. In Las Cruces next week there will be a major conference on obesity prevention, which involves all segments of the community to improve conditions in that community.

A presentation was made by Mike Miller who chairs the advisory committee for Emergency Medical Services. He stated that the state EMS funding pool needs additional support to maintain EMS services, especially in rural areas.

#### Recommendations of Interim Committees:

##### Welfare Reform Oversight

Senator Lopez and LCS staff Jennie Lusk presented the recommendations of the Welfare Reform Oversight committee. Senator Lopez stated that \$47 million dollars are proposed for cash assistance programs through 2014. She committed to working with LFC staff to put more money into programs such as adult basic education, GED, and ESL and is in support of the \$4 million expansion request. The Senator reported that the Zuni and Navajo tribes distribute funds through its own programs, which are similar to TANF; the committee supports an appropriation of \$1 million to the Navajo tribe and \$500 thousand to the Zuni tribe. The committee supports TANF recipients who return to school and is recommending \$500 thousand for education works. As no money has been provided for the teen pregnancy coalition this year, the committee is recommending \$500 thousand. Additionally, the committee recommends \$10 million for the LIHEAP program. She stated that bills have been drafted and are awaiting endorsement for the simplification of Medicaid enrollment; domestic violence and sexual assault prevention coordination; and the revision of HSD to cover their 15 percent overage and increase cash payments for TANF.

Senator Griego commended no cost fishing and hunting licenses for children receiving public assistance, a program initiated by Representative Miguel Garcia. He stated that teen pregnancy is a major issue in his area and referenced a Las Vegas plan for special classes for teen mothers to facilitate the completion of their high school education. The Senator is concerned that the program has been eliminated due to lack of funding. Senator Lopez responded that the committee works with HHS and the education committee to address this issue. Senator Griego stated that 97 percent of his district heats their homes with propane, and would like the LIHEAP program to include propane costs, and receive recurring funds. Representative Sandoval stated that propane has been included within LIHEAP though dealers require that a certain demand be met before they provide

services. Senator Griego stated that eligible persons should be made aware of funding and that propane dealers should be involved.

Senator Smith stated that funding for the teen pregnancy coalition will be non-recurring and questioned what the funds will be used for. Senator Lopez responded that the funds will be used for case management, male involvement programs and will provide oversight for TANF funds. Concerning the funding for Native American tribes, HSD provides oversight of the program.

Senator Smith questioned the Education Works program, to which Senator Lopez stated that it is a successful program which increases employment opportunity for recipients of cash assistance. The program has previously been funded by HSD.

#### Legislative Health and Human Services

Senator Feldman, Representative Picraux, and Raul Burciaga from LCS presented the interim committee recommendations. The committee has endorsed two bills relating to Medicaid and behavioral health and has examined universal health coverage for New Mexico and reviewed Mathematica's analysis concerning universal healthcare. The committee isn't endorsing any specific proposals except a health coverage authority.

Representative Picraux reiterated that the committee visited the entire state and had a lot of community participation concerning their focus of affordable care; she noted that there are not enough providers in the state. Representative Salazar stated that Medicaid participation is always increasing and wondered if a program could be implemented to prevent Medicaid participants from being dropped and if all eligible persons were enrolled. Senator Feldman stated that costs would approach \$37 million were the state to enroll all eligible children and \$125 million for adults at 100% of poverty.

Representative Varela stated that he has received numerous calls concerning universal health coverage proposals. Senator Feldman reiterated that the committee endorses the creation of an authority, but could not decide on the composition and funding of the authority. Their bill asks the HPC to review whether changes need to be made to expand its function and the committee will introduce bills based on the HHS committee findings concerning a healthcare authority. Senator Feldman stated that the committee was on the verge of recommending proposals for an authority and had reviewed the Oregon and Washington authorities. The committee recommended that the authority would not spend money on its own but would become an agency of state government and should implement a five year plan for expanding health coverage while considering cost containment and work force development. Representative Picraux stated that other bodies will also look at this issue and will want to look at introducing a healthcare plan beyond that of the committee's recommendations.

Senator Smith stated that the shortage of providers in the state should be rectified or else free health care will not be accessible. Concerning loan forgiveness, the committee heard a panel from DOH and Health Resources and discussed the pros and cons of approaches towards retention and recruitment and whether loan forgiveness could improve the rates. It was stated that \$1.8 million was inadequate funding for loan forgiveness. It was stated that rural areas are paying for malpractice insurance to allow providers to remain in the area. Telemedicine and distance

medicine are going to be addressed for health care concerns in future. Senator Feldman referenced the lack of federal funding and the closure of health facilities, for which Senator Smith suggested federal litigation; Senator Feldman agreed. Senator Smith reiterated decreases in new dollars stating that the General Fund should be a supplement to federal funds. Senator Smith noted difficulties reconciling this year's budget which should be taken into consideration in terms of health care reform. Representative Bratton noted that federal Medicare responsibilities will soon be turned over to the state, which will only increase budgetary problems.

#### Tobacco Settlement Oversight

Senator Mary Jane Garcia and LCS staffer Roxanne Knight presented the funding recommendation of the Tobacco Settlement Revenue Oversight Committee (TSROC). Since 1998, the attorney general's office has distributed tobacco settlement funds to DOH, HSD, UNM for programs including tobacco cessation and prevention, diabetes prevention and control, HIV/AIDs services, Breast & Cervical cancer screening programs, and cancer related research. The FY09 recommendation is \$21 million, which is \$700 thousand less than FY09.

Addressing Senator Carraro's statement that he believed \$500 thousand was recommended for the ECHO project at UNM, Roxanne Knight responded that the full committee recommended \$100 thousand.

Senator Smith requested information concerning state tobacco sales, to which Senator Garcia stated that sales are down approximately 22 percent nationally. An audience member and representatives from the American Cancer Society stated that there is a lack of data concerning untaxed sales, though tobacco sales are declining. Director Abbey confirmed that a decline is occurring in consumption and untaxed sales. Senator Smith stated that expansion programs including the "two-pack program" aren't recommended as revenue is declining.

Representative Saavedra had questions regarding taxes on cigarettes and suggested that persons who have to pay such high taxes should have a designated place to smoke. Senator Garcia stated that smoking cessation programs decrease tax revenues and agreed that persons should have a designated place to smoke in every restaurant and bar. Senator Smith noted that interim committees total 21 and suggested combining the tobacco and health committees in order to better accommodate a part time legislature. Both Representative Picraux and Senator Garcia voiced their support of combining the committees, though Representative Picraux stated that she is unsure if the committee needs to remain separate due to legal settlement issues; Senator Smith stated that staff would look into the issue and that committees should be consolidated. Senator Carraro stated that the committee could be a subcommittee of the LFC.

The committee adjourned at 5:20 p.m.

#### **December 5, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Wednesday, December 5, 2007, at 9:15 a.m.

The following LFC members were present on December 5, 2007:

Senator John Arthur Smith, Chair; Representative Luciano “Lucky” Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom (for Rhonda King), Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Ben Altamirano (for Timothy Z. Jennings), Sue Wilson Beffort, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson, Carlos Cisneros, and Pete Campos. Senator Vernon Asbill, Representatives Ben Lujan, Jim Trujillo, Kathy McCoy, Miguel Garcia and Antonio Lujan attended the meeting as guest legislators.

#### Corrections Department

Secretary of Corrections, Joe R. Williams, presented the budget and stated the department’s goal of renovating old facilities. Concerning Senator Smith’s questions, the secretary stated that the department cannot explain the current decrease in inmate population and that a decrease in population hasn’t occurred for twenty years. He stated that decreases generally occur around the holidays, and could be a result of reduced sentences for good behavior and department efficiency in ensuring that releases are on time. In regards to the facility in Springer, the Secretary stated that renovations are complete, the facility is up and running, and that the department is proud of the facility. He commended prison warden Mike Martinez for his good work and diligence.

To Representative Bratton’s questions, secretary Williams stated that studies have shown a correlation between unemployment rates and incarceration. Senator Beffort expressed concern over controlling the cost of medical contracts. He responded that RFPs were used to determine the lowest priced contractors. Dr. Vaughn stated that the cost of medical services is increasing along with state and national levels, and that the department’s goals are quality and cost containment. He stated that vendors have the assumed this risk and have an incentive to keep the costs down. Senator Beffort stated her confidence in Mr. Vaughn and reiterated her concern over cost increases. Secretary Williams added that the medical contract has an automatic CPI built in.

Representative Larrañaga questioned parole numbers and Secretary Williams responded that there are about 160 in-house parolees considered part of the inmate population. Suitable parole plans and placements are a goal for these individuals, but their individual circumstances make them difficult to place and they must remain in the system. There is a full-time FTE devoted to moving in-house parolees into the community.

Senator Smith questioned undocumented immigrants in the prison system and called for tighter enforcement at the border. Secretary Williams stated that the undocumented inmate population is unknown, but that after time is served, these individuals move into the federal system and are turned over to immigration. He promised to provide information concerning undocumented convicts.

Representative Varela noted the department’s 424 vacancies, specifically in administrative support and community offender management, and questioned hiring difficulties across the board. In terms of present hiring difficulties, he questioned whether it is possible to hire the 79 additional FTE they are currently requesting, and suggested reallocating positions. Secretary Williams reported difficulties in retaining employees and program changes that require additional FTE including a sex offender monitoring program and call center open twenty-four hours a day instead of eight to five as in the past. He stated that parole officers are now required to do more than just monitor parolees, they must also respond to violations. Representative Varela questioned fifteen

vacancies in program support and stated that vacancies should be easier to fill in this program than parole officers. Concerning recruitment efforts, the Representative stated that deferred benefits, such as early retirement, aren't as successful as offering immediate benefits. Concerning the department's audit, Secretary Williams reported it will be completed by the December 15<sup>th</sup> audit deadline. SHARE difficulties, concerning invoices and receipt of materials, were reported.

Concerning case management, it was reported that the SOAR program conducts case management and sets up employment opportunities for inmates. Case managers are limited to 50 clients.

An ongoing investigation is being conducted at Camino Nuevo concerning a corrections officer charged with rape. In terms of facility accreditation, Camino is considered one of the best in the state. Changes have been implemented in the women's incarceration division including a requirement of 40 hours of training on gender specific items for correctional officer cadets. The department is looking into implementing daycare and child care centers at the prisons. Currently, the New Mexico Women's Correctional Facility in Grants has 544 inmates.

Secretary Williams stated that the department's biggest challenge concerns capital for aging facilities. Contingent upon available funding levels, the department will do as much as possible though an estimated \$100 million is needed for capital repair. He reported a water leak at the level 6 Penitentiary of New Mexico facility in Santa Fe which required \$400 thousand in repairs and was completed without the need to evacuate the prison.

#### Energy, Minerals and Natural Resources Department

Joanna Prukop, Department Secretary, introduced staff and presented the department's budget. The primary objective is to shore up Forestry's general fund base to make up for projected decreases in federal funding. Base operation of the department requires increases from the general fund to cover increased fuel and operation expenses, GSD and DoIT rate increases totaling \$1 million, and the replacement of 36 unsafe vehicles.

Expansion items include: 1 FTE for the Mining and minerals division dedicated to uranium issues; \$2.5 million for up-front fire suppression funding; 1 FTE in program support to handle revenue management functions; and 7 FTE to increase 3 person parks to 4 person parks.

Ms. Prukop said the 34 parks in the system contain 19 lakes and are located in 25 of the state's 34 counties; an additional 2 parks are pending acquisition by the department. Increased visitation in the state's parks is boosting revenue. The department's diamond jubilee is next year and events and activities are being planned. The biggest GSD rate increases are in the program support division and unemployment insurance costs have increased to \$235 thousand.

Representative Lundstrom acknowledged the department's mining and minerals division and requested the department's presence in the Grants area to work with new development. Secretary Prukop responded that she would look into the issue. Concerning the potential status of Red Rock state Park, Prukop stated the department has been working to get the park conveyed back to the state with difficulties occurring with changes in city staff. December 1, 2007 was the target date to have the park transferred back, but the goal was extended to the end of the month. Representative Lundstrom voiced concerns about operational costs for the park. Dave Simon, director of state

parks, said existing joint powers agreement will split operational costs between the city and the state, although it cannot be initiated until the park is transferred to the state. In response to Representative Lundstrom, Simon said that capital outlay money cannot be spent until the park is transferred, and that approximately \$1.3 million in accumulated funds is being held in abeyance until the transfer is effected.

Senator Beffort acknowledged the department's fire suppression efforts, and voiced her support of adequate program funding. Secretary Prukop clarified that the \$375 thousand requested for vehicles does not include additional equipment, but updates the fleet. She stated that contracts are used for "on the ground" needs, including forest thinning, and that contractors have their own equipment. Senator Beffort voiced concerns about small contractors who don't have the money to provide their own equipment. The Secretary responded that a variety of mechanisms are used to fund ground projects including federal dollars.

Senator Carraro asked about the evolution of the Oil and Gas Conservation Program's waste pit rules, as well as how to encourage further drilling and participate in production. Secretary Prukop stated that she had sent a letter to Senator Smith addressing the Senator's questions as well as pit regulations and rule 50. Secretary Prukop explained that the program relied on guidelines which are difficult to enforce and necessitated a rule making process within the commission. Senator Carraro expressed interest in discussing the letter with the secretary, noted his desire to encourage the oil and gas industry to stay in production in the state and commented on the high costs of wells and the rate of returns for oil producers.

Representative A. Lujan questioned the number of exploratory permits, and Secretary Prukop responded that about 14 have been approved and are minimal impact permits concerning six or fewer wells. Bill Brancard, program director, stated that fourteen uranium exploratory permits have been received and six have been approved. Mineral mills' licensure falls under the nuclear regulatory commission, for which the state has appealed to the NRC.

Representative Bratton requested a comprehensive economic impact analysis on the new pit rules. He voiced concern that increasing the cost to drill in certain areas in the state would affect drilling throughout the state. He noted that rig rate counts in Texas and Oklahoma have increased, while New Mexico's have decreased, and questioned the department's policy concerning economic impact on the department's regulations. Secretary Prukop stated that the letter takes a direct look at evaluating the economics of the new draft rule though the final impacts have yet to be determined. She stated that rate counts go up and down every week and that the department monitors rate counts in New Mexico and surrounding states. Prukop referred to legacy and liability issues which the industry is aware of, and stated the department's interest in environmental protection. Representative Bratton noted that he had significant experience in the oil and gas industry and stated that regulatory decisions can have a major impact on the industry. He added that two-thirds of the state's revenue in corporate income tax comes from the energy sector and that changes in regulations can have an impact on the industry, and in turn, the revenue for the state. He stated that all departments in state government should look at their impact on the industry and should be comprehensive in their analysis of the impact on the state, tax flow and the bottom line. He stated the department's responsibility in that respect.

Representative Varela asked about the agency's bonding capacity and the plan for enhancing additional state parks and infrastructure. Secretary Prukop said that plans are in place for all 34 state parks including a maintenance cost schedule and capital projects lists which are combined every year and prioritized. Dave Simon added that that bonding capacity is fully utilized and that new bonding capacity must wait until 2012 in keeping with GGRT, and that capital infrastructure needs represent \$100 million dollars for all state parks over the next five years. In response to a follow-up question regarding the Youth Conservation Corps (YCC), Secretary Prukop said that YCC staff meet with local communities and are advised how grants can be obtained from YCC and that local communities receive monies distributed throughout the state to give youth work experience and income. Mr. Simon referred to a department report concerning GGRT program fund utilization and stated that the report can be made available to the committee.

Representative Varela referred to last year's 44 vacancies, 29 of which were in state parks. This year the agency has 69 vacancies, 34 in state parks and 13 in oil conservation. Mr. Simon said that he shared Representative Varela's concerns and reported that changes and progress have been made. In the oil and gas conservation program, Secretary Prukop stated that competition among other entities for qualified employees and higher salaries in the private sector exacerbate agency hiring difficulties.

Representative Varela asked about the agency's audit and Secretary Prukop reported that the department has a good chance of meeting the statutory deadline for their audit, though challenges have occurred. She stated that the audit should be complete by the session.

Addressing Representative Salazar's questions concerning the department vehicle fleet, the Secretary stated that the average mileage on current vehicles is well over 100 thousand miles, that vehicles have been deemed unsafe and that maintenance has become more expensive than buying new vehicles.

Senator McSorley acknowledged the department's protection of citizens and the environment. He questioned the \$4.5 million loss in federal funds, requested written estimates concerning the number of forest acres that need to be thinned cost per acre, the type of land and the amount of federal dollars needed. He also requested estimates as to the amount of water that will be accumulated as a result of the thinning. The Secretary stated that an analysis will be prepared and submitted to the committee.

Senator Cisneros questioned the number of FTE required to implement the PIT rule. Secretary Prukop responded that no additional FTEs are requested for the oil and gas conservation program. She reported that the division had received 4 FTE in the past who have become dedicated to pit inspections, and that no new FTEs are required for the new rule.

Senator Smith stated his apprehension concerning the state's current revenue in terms of new construction and income tax, and reported upcoming substantial costs including universal health coverage. He expressed concern that the state's rules will be more stringent than rules throughout the rest of the country and reiterated that the state's revenue cannot be jeopardized.

#### Executive Compensation Report

Gene Moser, LFC Principal analyst, reported that the base salary per employee for FY07 was \$38 thousand and had grown to \$40.6 thousand in FY08. Mr. Moser reported a 20 percent increase in the average base salary level since FY03.

Sandra K. Perez, Director of the State Personnel Office (SPO), presented the State Personnel Office's executive compensation report. She advised the committee that the details of the executive's compensation proposal would not be released until the governor's budget was released.

Ms. Perez stated that survey data indicated that most comparative organizations would be awarding an average of 3.4 percent increases for pay raises and 3 percent for structure adjustments. She indicated that SPO is planning only salary increases for employees this year and that structure increases will be addressed next year. Ms. Perez reported that New Mexico ranks 3rd in base salary comparisons and 5<sup>th</sup> in total compensation.

Representative Saavedra stated his disappointment that the governor is not also requesting a structure adjustment to the pay plan. Ms. Perez stated that moving people away from the bottom of the pay structure would facilitate change in structure, and that currently, the right structure adjustments are being determined. She stated that 590 employees are still at \$20 thousand or less. Representative Saavedra noted that low salaries pose the biggest problems for retention and recruitment, and stated that salaries at this level are below a living wage. Ms. Perez stated that these 590 employees will be worked with through the department to change their classifications, and promised to take the Representative's concerns to the executive.

Representative Varela questioned the average base salary rates reported by Mr. Moser, in terms of the federal poverty level; reportedly, the 100 percent poverty level is currently at \$21 thousand for a family of four. The Representative stated that the take home pay for lowest paid employees is considerably less than the poverty level and expressed concern about the increased cost of living and 39 percent taken out of salaries for benefits. Mr. Moser noted that insurance costs are the highest deduction after income tax, and that total compensation has gone up in the last few years. Representative Varela noted retention and morale issues associated with low salaries and that more structure adjustments should be done from top to bottom. Concerning SPO vacancy rates, Mr. Moser stated that for this year the data has been difficult to collect due to issues with the SHARE system. He stated that SPO's average beginning salaries pose a recruitment problem for agencies. He noted exceptions approved by the LFC concerning minimum hiring levels.

Representative Larrañaga questioned personnel rules concerning rehiring retired employees and the lack of data regarding temporary employees and their salaries. Ms. Perez responded that retirees are not given an automatic bye into positions that they left and that 'return to work' employees are required to reapply for job openings. There are no personnel board rules prohibiting any member of the public to apply for jobs, and stated many of these return to work employees do so because of the high cost of health care. Concerning employees in the \$10-20 thousand salary level, Ms. Perez stated that these are permanent employees, and that salary levels for temporary employees can be made available.

In response to Representative Bratton, Ms. Perez stated that occupation groups are used to compare salary rates, and that benefits are a major motivator for state jobs. Representative Bratton



advised the advertisement of benefits along with job postings to help fill vacancies. He stated that recent graduates and young people may not be motivated by retirement benefits and stated that more equity should be given up front and stated that private sector benefits don't compare to government benefits. Ms. Perez responded that the state government doesn't adequately advertise benefits and agreed with the representatives' suggestions.

Representative Salazar requested data on persons who have retired and gone back to work for the state, to which Ms. Perez stated she would request the data from PERA.

Speaker Lujan stated that the starting pay for new employees should be a minimum of \$10/hour, rather than the state minimum wage, to assist persons making less than \$30 thousand.

Senator Altamirano questioned the return to work program and employees who are eligible for positions with 90 days of retirement. Ms. Perez stated that when an agency can't afford to lose employee knowledge, the agency may feel it has no option but to bring that employee back on a temporary basis to transfer the knowledge. She stated that placement of 'return to work employees' takes into account experience levels, which would be difficult if only the minimum has been budgeted.

Senator Smith stated that SPO has been moving in the right direction since 2003 with respect to compensation and that shortages should be addressed and inquired as to where low income employees are located, whether metro or otherwise. Ms. Perez stated that the information will be available in their report issued at the end of December.

#### Other Pay Plan Compensation Requests

Administrative Office of the Courts Director Arthur Pepin and Laurie Hatcher presented the compensation request for the AOC. In FY08, a 5 percent pay increase was implemented through data performance planning, and the AOC anticipates a request for language regarding pay for performance. It was reported that a maximum of 7 percent and a minimum of 3 percent raises were given to employees during the previous fiscal year according to appropriate performance measures and compa-ratios. Adjustments are needed in regards to the pay raise structure and imbalances in regards to mid-point salary levels.

The judicial compensation commission requested an 11 percent increase; last year they were granted a 5 percent increase. It was reported that the average compensation increase in nine comparable states has been just over 10 percent. The Judiciary is looking into judicial retirement accounts, as judge contributions are currently at 7.1 percent. Civil fees contribute over \$1 million a year to the General Fund.

Randy Saavedra, Director of the Administrative Office of the District Attorneys, presented on behalf of the state district attorneys and thanked the committee for their help with last year's compensation plan. He stated that the biggest issue is retention of employees, and referred to competition from other entities. He requested that minimum pay grades be increased for the first time in six years, an initiative that would cost \$192.5 thousand. AODA is looking at vacancy savings to fund increases for smaller districts. The department is "shadowing" the AOC's pay for performance model and will fully implement their own model by next year. He stated that elected

district attorney raises should be consistent with judge's raises and noted that a funding formula proposed by Senator McSorley at the department's November budget hearing is preferable. A 50 percent vacancy rate was reported in some DA offices and "return to work" programs have been used to recruit and retain attorneys though DAs continue to lag behind other state attorney positions. A case study is being conducted to compare average salaries among nine comparable states.

State Police Chief Segotta presented on behalf of the New Mexico State Police noting that recruitment and turnover are areas of concern as the agency experienced a vacancy rate of 14 percent. The applicant pool for officers is declining nationally despite increased demand, and the Department of Public Safety (DPS) is evaluating the use of recruitment bonuses to attract new officers. Surveys show that many New Mexico cities are providing significant pay raises and that New Mexico state police salaries lag behind surrounding states by an average of 8 percent. Recruitment and retention efforts have included the hiring of experienced officers, out-of-state recruitment, and rural, minority and female recruiting. Chief Segotta acknowledged that in terms of recruitment, pay is not the only consideration although it is a high priority for applicants. The Chief indicated that future raises to correct this matter would have to be across the board to prevent new officers from making more than officers who have been employed for one year or more.

Senator Griego questioned whether 13 percent increases would be enough to compete with other entities around the state. Chief Segotta stated that 13 percent would increase competitiveness but not fully. The Senator noted the reliance of rural communities on the state police, and stated his concern about retention rates. He recommended pay and benefit package increases and effective out-of-state advertising to attract new police officers.

Addressing the AOC, Senator Wilson-Beffort questioned employee contributions into the JRA, and questioned the percentage requested from the legislature to fund retirement.

Representative Lundstrom questioned if hiring freezes were in place for the motor transportation division. Chief Segotta stated that there were no hiring freezes in place for commissioned officers within MTD.

#### Attorney General

Attorney General Gary King presented the budget along with ASD Director Evangeline Tinajero, and stated that the AG is sticking to a flat budget. Concerning settlement monies, the AG was responsible for \$1.7 million. Settlement collections total \$3 million in addition to tobacco settlement fund monies totaling about \$35 million annually.

Expansion items total \$1,085.7 million and include:

- \$177.4 thousand for 2 special agents working for internet crimes against children
- \$88.7 for 1 Investigator for Las Cruces
- \$75.4 thousand for an advocate/legal assistant for Las Cruces
- \$225 thousand for contractual services
- \$75.4 thousand for a legal assistant in Albuquerque
- \$66.6 thousand for an IT technical support specialist
- \$71 thousand for an IT network specialist

- \$70.2 thousand for a communications specialist
- \$102 thousand for an attorney
- \$68 thousand for a paralegal
- \$66 thousand for a legal assistant.

Special appropriations requests include: \$2 million for water litigation against other states; \$2.5 million for a special methamphetamine projects targeted at NM youth; \$113 thousand for salary equity increases for mid-level attorneys and to increase the office's competitiveness and \$75 thousand for a third party compensation study.

Representative Antonio Lujan thanked the AG for the Las Cruces office and praised them for their helpful constituent services.

Senator McSorley applauded the AG's initiatives for this year. He agreed that internet predators should be dealt with, but that 1<sup>st</sup> time non-predator offenders may have been dealt with too harshly, especially in terms of putting juvenile offenders on life-time sexual offender lists and enforcing lengthy sentences. He requested that the AG look at the issue closely before requesting funding for the issue until the federal government issues their regulations. He questioned results from the state of Montana concerning methamphetamine related issues, to which Mr. King agreed to provide analysis.

Representative Garcia voiced his support of including the Treaty of Guadalupe Hidalgo (TGH) in the AG budget. He stated that New Mexico has one of the oldest forms of government and hopes that the committee will take the request seriously as land grant communities will be affected by the funding. Mr. King stated that a contract has been issued to conduct a study and that \$25 thousand was appropriated last year.

Senator Smith stated that he appreciates Mr. King's knowledge of the branches of government and that he respects their separation. He referred to challenges in the political landscape and stated that the public turns to the AG more than other elected positions to "right wrongs" and encouraged the AG to continue moving forward. Mr. King stated that one of his goals has been to enhance the public's perception and that he has a very good team in place to pursue issues as professionals. Further, he stated that he would like the AG to be perceived as tough on persons "on the wrong side of the AG's office." Before the end of the fiscal year he ensured good and powerful results.

#### Department of Information Technology

Roy Soto, Secretary Designate, introduced staff and spoke of the department's mission, vision, responsibilities and values. He stated that DoIT is a new Department, effective July 1, 2007, whose mission is to provide cost-effective and efficient enterprise products, services and solutions for its customers--state agencies--so that they may be able to better serve the public. Mr. Soto gave an organizational overview, including restructuring separate functions from General Services Department (GSD) and the Office of the Chief Information Officer into a lateral organizational chart that grouped both information technology (IT) and telecommunications together in recognition that these technologies are no longer separate. The new chart includes three divisions, Program Support, Enterprise Services – which focuses on "customer" service, and Enterprise Operations – which deals with all the equipment. Mr. Soto noted that additional staff for Program

Services will be required because several management positions did not transfer from GSD. Mr. Soto explained that the new model elevated cost recovery and business continuity to prevent past problems, such as federal claims and systems being down.

Mr. Soto also discussed the repayment of about \$15 million over the last 10 years to the federal government because of overcharges and noted that the state has filed a countersuit for the latest residual federal claim of \$2.8 million in federal district court. The department has requested two supplemental appropriations related to the overcharges: a \$1.8 million request to replace funds used to pay \$2.2 million in October 2007 (which included interest) and \$2.8 million contingent upon losing the counter-lawsuit.

Secretary Soto stated that the Information Technology Commission (ITC) members have been appointed and that the ITC is scheduled to meet in January 2008. An IT rate committee meets quarterly to review the rates and to avoid the overcharges of previous years.

Mr. Soto listed the agency's first quarter accomplishments, which included:

- 5 FTE with Project Management Institute certification
- Secured Data center access
- Assessment of critical enterprise projects and the implementation of project management
- Deployment of the CIMS on-line billing system
- Updates of critical oversight and compliance processes
- Development of a quarterly review process
- Approval of FY09 rates for DoIT services
- The development of agency plans including a FY09DoIT strategic plan, Annual IT plan, and an IT service management plan.

Based on adjusted FY08 operating budget, which includes almost \$5 million in budget adjustments, the department's FY09 revised base budget request represented a 15.5 percent overall increase from FY08 including internal transfers. The request included a 5.5 percent increase in personal services and employee benefits, a 2.3 percent decrease in contractual services and a 25 percent increase for other expenses, representing a 12.3 percent total increase. Expansion requests total \$1.3 million, and include 16 FTE, ten of which are for management positions within the organization. Budget issues include fully accounting for leases, maintenance agreements and IT support costs, proper staffing, equipment replacement and telecommunication cost increases. Mr. Soto noted these last two items account for the large increase in the other category of \$5.2 million.

Additional FY09 requests include computer enhancement fund projects totaling \$9.2 million for the following:

- Redundant Data Center Study and Pilot (\$2 million)
- Enterprise Performance Monitoring Center (\$500 thousand)
- Internet Infrastructure Upgrade (\$200 thousand)
- Wire NM (\$5.75 million)
- Enterprise IT Asset Management (\$750 thousand).

DoIT is also requesting \$6 million for capital outlay related to the NM Computing Applications Center or supercomputer project, \$10 million for special appropriation requests and \$5 million in

supplemental appropriation requests relating to the federal overcharge claims. The secretary designate stated that performance measures had been agreed upon by the LFC and DFA and that the LFC now has access to the project data system online. Additionally, equipment replacement funds for information processing and telecommunications services will be required because the fund was discontinued. Plans to include depreciation in the rates will help generate replacement funds going forward.

Representative Larrinaga voiced concerns regarding increasing the DOIT budget rather than using resources from other agencies and the possible duplication of services within DoIT. Secretary Designate Soto stated that moving people from agencies and into the department had been considered, and that the department continues to monitor the issue. He also clarified that the two IT divisions within DoIT perform distinct functions—one for customer services and one for managing the equipment, such as the mainframe, switches and servers. Representative Larrinaga stated that agencies should be able to review the department's performance. Secretary Designate Soto replied that the department has all of the infrastructure and management capabilities to provide services and that some interaction had occurred with agencies through the new IT rate committee, which is composed of agency representatives. Representative Larrinaga noted that the department was designed to provide services better than outside contractors, such as federal reimbursements, and questioned whether services are improving. Mr. Soto stated that service is better despite initial challenges, although bill collection could still use improvement. Representative Larrinaga commented that it will be important for the legislature to follow DoIT's progress to make sure the state reaps the benefits the legislature expected from the reorganization.

Representative Varela noted that that creating new agencies, such as DoIT from the OCIO and GSD technology divisions, was intended to streamline government and save money. Instead, GSD and DoIT are not saving money in their initial budget requests. He also questioned the need for the 10 unauthorized exempt positions. Secretary Designate Soto stated that those positions were created with Department of Finance and Administration, State Personnel Office and the governor's office and was unaware of limits on unauthorized positions. He also stressed that the 10 exempt positions are needed to execute the functions provided by statute and executive orders and was based on a "best practices" model.

Representative Varela stated that he is not convinced that the ITC is functioning properly because its role appears to have significantly changed and no longer approves IT projects. Mr. Soto stated that the commission will meet quarterly to review and approve IT strategies for the state and to define, approve and promulgate rules. This change in function will require a change in the rules, although Mr. Soto did not expect rules to be promulgated by the 2008 session and referenced the need for public comment. Representative Varela stated the need for a hearing to focus solely on DoIT, including the ITC's role and the other new state departments.

Concerning the Computer Applications Center, or supercomputer initiative, Representative Varela questioned the \$4 million request for "seed" operational money. Tom Bowles, the lead staff person for the initiative, stated that the cost includes 56 FTE. Representative Varela questioned whether the supercomputer had been approved by the ITC and Secretary Designate Soto answered, "No." Representative Varela clarified that DoIT is requesting an additional \$10 million; \$6 million for capital and \$4 million for operations. Additional discussion ensued regarding various aspects of the

project, including possible participation of the proposed Santa Fe Innovation Park, corridors and gateways through higher education and the Sandia and Los Alamos National Laboratories and public school participation through IDEAL.

Senator Smith noted that the supercomputer project had received \$14 million in capital outlay in the previous year with no guidelines and asked if the requests were on the governor's "call," suggesting that the governor pay for it as it is another governor initiative among several that had been funded without law, oversight or accountability. He recommended no further funding for this project unless it is in statute. Secretary Designate Soto stated that the LFC will be kept in the loop on possible legislation for the 2008 session.

The committee adjourned at 5:15 p.m.

### **December 6, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Thursday, December 6, 2007, at 9:30 a.m.

The following LFC members were present on December 6, 2007:

Senator John Arthur Smith, Chair; Representative Luciano "Lucky" Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom (for Rhonda King), Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry "Kiki" Saavedra, and Senators Ben Altamirano (for Timothy Z. Jennings), Sue Wilson Beffort, Phil A. Griego, Joseph J. Carraro, Carlos Cisneros, and Pete Campos. Senator Vernon Asbill, Representatives Ben Lujan, Jim Trujillo, Kathy McCoy, and Antonio Lujan attended the meeting as guest legislators.

#### Higher Education Institutions

Dr. Dan Lopez discussed the Government Accountability Act in relation to higher education institutions and introduced the council of university presidents. The NMACC Representative introduced the accountability report of the branch colleges including legislative priorities. Accountability reports show that graduation rates are lower than they should be and stated that more work is needed.

Higher Education Secretary Reed Dasenbrock presented a top level summary of recommendations which was submitted to the Department of Finance and Administration and the Legislative Finance Committee on November first, concerning affordability, equity in funding, excellence and access. Tuition, including required fees should remain low, increasing by no more than 5 percent in exchange for zero education tuition credits. Tuition in New Mexico was reported lower than in other states which helps encourage enrollment and sustains the lottery fund. The budget request included the following: \$4.4 million for inflationary factors to help institutions with utility and insurance costs, financial aid increases including more money for the medical professional program and a doubling in work-study funding. Dr. Lopez noted that students with work study jobs graduate at higher rates than students with off-campus jobs. Increases requested for the program reflect minimum wage increases and is endorsed by all the institutions.

Dr. Lopez referred to the P20 interface between higher education institutions and public education. He stated that legislation from last year encouraged higher education to waive tuition for students from public schools and suggested a formula adjustment that wouldn't charge a tuition credit for dual enrollees as no tuition is being charged for these students. Dr. Lopez requested \$5 million recurring for full operation of the IdealNM program, and referred to online university courses being made available to every school district in the state. He stated that the program is crucial for smaller and rural school districts and requested \$2 million for dual enrollment credit offset. Finally, Dr. Lopez reported that 20 thousand students are involved in adult basic education for which \$4 million is requested. A reported 400 thousand persons are eligible for these programs at a cost of about \$504 per student.

Representative Varela questioned inflationary increases and zero tuition credit in relation to the downturn in revenues and stated that a compromise is required. Representative McCoy stated that she is very interested in the Cyber Academy. Mr. Dasenbrock stated that the program is in the process of being enacted and a commitment has been made to make the program available to every student in the state. Smart classrooms will be utilized at Community Colleges and smaller institutions, and stating that the estimated savings are yet unknown.

Senator Altamirano questioned the \$2 million request for the Cyber Academy to which Mr. Dasenbrock responded that without further funding, the program will remain at the pilot level. He stated that if \$5 million was given to the program, it would be self sustaining in future years. He stated that students will be charged tuition for attending the program which would generate funds.

Representative Lundstrom referred to the increase of the department's base budget in terms of decreased revenue estimates. Mr. Dasenbrock stated that HED staff increases have been recommended in terms of programmatic and statutory responsibilities. He stated that higher education is a \$3 billion enterprise requiring more than the current 32 FTE. In regards to compensation, 5 percent increases were given to faculty and staff and stated that fair compensation increases are necessary. He stated that a full budget is received from each institution.

It was noted that appropriate compensation is necessary to recruit and retain staff as national demand for professors outweighs the supply. UNM salary levels are currently 12 percent below local markets, and some institutions are even further behind. The requested .75 percent ERB contribution helps to give a true salary increase.

Central New Mexico President Cathy Winograd requested a 6 percent increase in salaries for independent community colleges, noting that these schools lag behind comparable institutions in other states by about 8 percent. She voiced her support of the three tier licensure program and the HED requirement, which ensures that differentiations in salary increases be made locally.

Representative Varela referenced a newspaper article regarding a deficit in university research and questioned how long can salary increases be sustained by private donations. Mr. Gamble stated that some salaried positions are funded by "soft funds" and that these employees are separate from state employees. He stated that these employees usually aren't tenure track but are in positions such as research assistants; if soft money decreases, then the position is terminated. Representative Varela requested assurance that blue-collar workers be represented and receive

equity. ENMU President Steven Gamble responded that blue collar workers are included as staff and would receive the increase, though adjunct faculty would not.

Representative Salazar questioned the recruitment of new staff and questioned differences in salary ranges amongst professors and researchers. Mr. Gamble stated that faculty is expected to conduct scholarship and research at research institutions and that these persons require more salary than persons solely engaged in teaching. Representative Salazar stated that research faculty bring revenue to the institution and increase credibility. Mr. Gamble stated that all faculty should be engaged in teaching and stated that the amount of funding brought in by faculty is generally in science and technology, though he respects the scholarship of all faculty. He stated that the technology transfer of universities increases jobs in New Mexico and agreed to provide information on the overall impact of technology transfer on the state.

Concerning Representative Lundstrom's questions concerning student benefit from increased compensation, Mr. Gamble reported that the compensation of faculty affects recruitment of students and ability to recruit the best faculty. He stated that the quality of professors directly relates to the quality of education, and that the enhancement of the university's reputation increases prospective student interest and enrollment. The direct benefit for the student is a higher quality faculty and a better learning environment.

Representative Varela referenced the supercomputer program, and questioned UNM's connection to the program. It was stated that UNM will have a connection to the facility and will have access. The Representative encouraged public institutions to assist the college of Santa Fe which is reporting difficulties, and requested that the college become involved in the project. Mr. Gamble stated he will look into the suggestion.

WNMU President John Counts gave information on the fall headcount and referenced the formula funding task force. He stated that the formula enhancement task force will limit the potential workload and stated that significant enrollment decreases have been experienced in recent years. Enrollment increases are anticipated for military personnel and overall population. He requested that provisions be made to allow time to make adjustments without affecting the educational capability by enforcing funding cuts that will affect current students. He requested that the loss of funding be implemented over the next several years rather than all at once, to provide a soft landing. It was noted that enrollment is correlated to the New Mexico economy. It was suggested that incentive, rather than punitive funding, should be the goal of the funding formula. Unanimous support for the dual credit program was given by the institutions.

Concerning dual credit, Representative Varela stated secondary school dropouts effect enrollment at higher education institutions and noted that employers should encourage students to attend school while they work. He stated his disappointment in the lack of PED representation at the hearing. It was reported that higher education institutions have been working closely with PED to establish dual credit rules which are close to being adopted.

Representative McCoy encouraged the development of vocational programs and questioned the number of higher education facilities per capita in New Mexico and in comparison to surrounding states. She questioned attrition rates in New Mexico compared to comparable states, and noted



that Cyber-teaching should be emphasized.

Speaker Lujan questioned the percentage of students moving away from home to attend higher education institutions. It was reported that specific curriculums attract students from other areas. Data can be provided to the committee on a county basis, and approximately 20 percent of students come from out of state. The Speaker requested additional information concerning high school graduates and what schools they will be attending.

Representative Wallace noted that laboratory and other additional fees are a disincentive for students, especially for science courses. It was noted that institutions try to keep fees down by using institutional resources.

Representative Trujillo stated that the educational focus should be on the entire family to promote an environment that supports education. Representative Moore stated that the community should be involved in research efforts made by institutions of higher learning.

Senator Smith stated his appreciation concerning NMSU's efforts on agricultural issues on the border and specifically, the activity targeted to Chihuahua's agricultural development. He noted unfavorable national connotations concerning the border area and stated that the LFC's recent trip to the area was an educational one. He stated that NMSU's Agriculture department was instrumental in the collaboration with Mexican officials.

#### Special Schools

Mr. Stern, Superintendent of the New Mexico School for the Deaf, reported that 578 deaf and hard of hearing students were served this year, representing an increase of 6 percent over FY08. Attainment of goals has been successful and the accreditation process for two national organizations is underway with complete certification expected. He stated that emergency alert communications systems need to be implemented and will cost between \$300 and 400 thousand; and the school's maintenance building requires renovation. New building construction has been completed and older buildings are being renovated for ADA compliance and energy efficiency. The institution's external audit was received 2 weeks ago, with unqualified opinions and no findings. FY07 permanent fund revenue dropped to \$9.4 million dollars and increases are not anticipated. The school included \$9.8 million in the FY09 budget request based on FY07 numbers. Mr. Stern requested that the school's general fund appropriation be reevaluated.

Representative Trujillo questioned the school's mission, campuses, students and teachers. Mr. Stern responded that the school has a dual mission, 3 campuses-one in Santa Fe and pre-schools in Albuquerque and Las Cruces, with about 140 students. Outreach in 50 school districts includes 242 students. The school's early childhood intervention program serves 196 infants and toddlers, and the 3 campuses employ 35 teacher-about 20 in Santa Fe alone and include related professionals such as physical education teachers and counselors. Mr. Stern agreed to provide a cost analysis for students served by the school. It was reported that the school houses students during the week and busses or flies them home every weekend. Trujillo suggested localizing deaf education to save on costs, and suggested that another property in Santa Fe be used for the school as the current location is too expensive and could be utilized in other ways. The director stated that he was astonished by the Representative's remarks and that the school in Santa Fe provides a

phenomenal and necessary service for its students, noting that the communal and social capacity of the school is necessary for these students.

Representative Saavedra thanked the director for the work that he does, noting that the school does a wonderful job.

Ms. Rita Coburn and Ms. Lyle made the presentation for the New Mexico School for the Blind and Visually Impaired. Ms. Coburn stated that funds are needed for a low vision clinic and \$267 thousand is needed for building renewal and replacement. For FY09, \$3.9 million will be taken from their endowment fund to support operations. Ms. Lyle stated that the early childhood center will be opened in February 2009 and that groundbreaking was earlier this month. 2500 children utilized services last year and the school is currently in talks with Albuquerque Public Schools to reach out to children of all ages.

Director Abbey, who serves on the public school capital outlay council, stated that GO bonds could potentially be appropriated. He suggested that a fiscal impact report address the possibility for the school to be eligible for public school capital outlay. Director Abbey stated that a standardized base appropriation would need to be changed and encouraged the department to be aware of this capability.

Representative Saavedra voiced concerns over the safety of the new school and received assurances from Ms. Lyle that the school is located in a good safe area.

Representative Trujillo noted family members who had attended the school and complimented the school for their work.

Superintendent and President, Rear Admiral David Ellison Ret., of the New Mexico Military Institute discussed the school's classification as a special school and stated that the school is responsible for the development of the entire person including leadership, character, academics and physical fitness. He stated that enrollment has decreased by about 15 people annually, which they are working to turn around, but hasn't yet reached a crisis level. The Leadership Academy and other programs are being implemented for 7-8<sup>th</sup> graders to increase enrollment and outreach. The number of FTE has increased due to a newly implemented college program allowing dual credit. Concerning attrition, the director reported high standards. The director reported that the biggest challenges for students are building character and physical fitness. The school's high school freshman scored higher on the ACT than state and national standards, and academics are assessed annually. Additionally, college level math scores were higher for NMMI students. The school is the only one in the country to integrate a high school and college and allow for dual credit. The school reports the ability to produce military academy graduates, not just acceptance into the academies. The school has a responsibility and accountability focus which produces service leaders. Over time, operating funds kick in when land grant funds lag behind. Expenditures are being driven at a faster rate than revenue-\$2 million is required to remain in the fund for cash flow issues. NMMI is at bonding capacity until 2013; land grant & permanent fund distribution will decrease from 5.8 to 5.5% in 2013.

The NMMI Funding request follows:

- Athletics formula implementation
- Inclusion in equipment renewal replacement formula
- Strategic planned renovation of all 20 campus buildings, 5 of which are up to code. The plan is to renovate one building every two years
- \$7.9 million Pearson Hall renovation which is non-ADA compliant, has asbestos, is not energy efficient, has lead paint, etc. Design has been completed due to \$500 thousand appropriated last year. Looking into other funds for the building. This building is the priority. \$5.4 million could be obtained from a bond issue
- \$2.3 million for utilities upgrade for a potable water system
- \$500 thousand for Cahoon hall renovation
- \$1.6 million for one-time emergency preparedness funding.

The school is not requesting operational funding, though building renewal and equipment are concerns. Athletics are an integral program for the school which is an expensive venture, especially for transportation.

Senator Smith noted that enrollment difficulties could be due to the war in Iraq. The director stated the enrollment issues at other schools are the same as NMML. He reported enrollment spikes and losses that can't be answered definitively.

#### Review of Lease Purchase and other Building Finance Mechanisms

Dr. Tom Pollard, a consultant with LFC and LCS, reviewed lease purchase and other building finance mechanisms used throughout New Mexico. Points addressed by Dr. Pollard are as follows:

- Most state facilities are beyond their useful lives and need substantial renovation or replacement. The median age of state facilities is 41 years; this includes hospitals, prisons and warehouses, as well as offices.
- According to General Services Department the estimated total need for maintenance in 2005 was \$500 million; a more current estimate would probably exceed \$800 million, taking into account the inflation in construction materials
- Since 1990, the state has depended more on leasing. In office space alone, nearly 60 percent is leased
- The least expensive finance mechanism is the issuance of state general obligation, severance tax, or gross receipts tax intercept or other dedicated tax bonds
- The most expensive of the alternatives to provide facilities, remains the private lease; the state pays the private developer's cost of finance, 2 to 3 percent points above the state's borrowing cost, and never gains ownership of the facility, making lease payments forever.

Senator Rawson discussed the high cost of leases by private developers; factors such as taxes, land valuation and lease term drive the price. Senator Smith stated that all markets are different. The Santa Fe market and rural communities have low vacancy rates due to limited space; these areas have high lease rates; areas with high vacancy rates pay less. Senator Smith concluded by stating each situation needs to be addressed on a case by case basis; there are times when leasing space is more cost efficient than purchasing - the state needs to be more strategic when planning for space.

### Review of 2008 Capital Outlay Requests

LFC analysts Linda Kehoe and Jeannae Leger presented the review of 2008 capital outlay requests and provided an update for projects greater than \$1 million. As of October 31, 2007, DFA reported over 8,500 projects with \$2.1 billion outstanding; 3,000 of the projects were appropriated in 2007 with costs totaling \$721 million. Funding sources for these projects include \$1.1 billion general fund, \$852.5 million in STB, \$181.7 million in GOB and \$114.4 million in other state funds. DFA reports indicated that approximately \$590 million had been appropriated for nearly 3,000 projects between 2002 and 2006 that report no activity and no money spent. These projects specifically will be given special attention by DFA and LFC staff during the interim of 2008. Ms. Kehoe stated that approximately \$138.4 million authorized from severance tax bond capacity had not been issued, though December's bond sale could reduce the unissued amount.

Ms. Leger gave an update of Quarterly Status Reports for Projects Greater than \$1 Million, and stated that information had been obtained by contacting each administering agency. A total of 346 projects were reported from the years 2002-2007 for which \$1.1 billion was appropriated. Of that amount, \$273 million had been expended and \$846 million remains unspent, accounting for 53 percent of outstanding capital balances. Ms. Leger reported that 210 projects are on schedule, 89 projects are behind, and 47 report no activity or are awaiting the sale of bonds, while 18 require additional funding to complete the project.

Ms. Leger stated that in order to demonstrate a more quantitative methodology for projects, LFC staff will implement a revised tracking module. Agencies will be asked to identify a milestone achieved for each quarter, set a milestone for the next quarter and provide a timeline identifying various stages of the project. This procedure will allow LFC staff to better assess the progress of the project and determine if it is behind schedule. In order to improve the quality of information received, a project status and color validating guide has been provided to each agency, and includes a list of questions addressing the type of information that should be addressed. She assured the committee that staff will continue to work with agencies on the information provided in order to provide a more quality report.

Ms. Kehoe stated that efforts had been made during the interim to improve the capital process. She stated that DFA and LFC staff worked together to refine the Capital Outlay Monitoring system to improve accountability. The Capital Outlay Subcommittee made recommendations concerning the capital process, for which their work will be finalized at their December 11<sup>th</sup> meeting. Four items under consideration include: criteria for determining the merit and funding of both stated and local projects; a prioritized listing of state agency, higher education, and special school capital needs, timelines for the passage of capital bills and possible improvements relating to reauthorization.

An updated forecast of capital funding availability for 2008 was presented to the committee and detailed that \$555 million is available for one-time capital spending in FY08-09. Ms. Kehoe reported that net STB capacity is \$180.7 million, general fund capacity is \$150.4 million which assumes 10 percent in reserves and approximately \$143 million for specials, supplementals, deficiencies, information technology; general obligation bond capacity is \$223.8 million which is generally authorized for higher education, public education, senior projects and libraries. An additional \$208.2 million from supplemental STB capacity for public school construction was not

reflected in the total capacity.

Ms. Kehoe stated that long-term debt service is expected to be \$180 million by FY2013, up from \$93 million in FY07. She stated that most of the severance tax bonds for capital outlay have been issued as short term notes that use capacity without adding to long-term debt, though they prevent significant transfers to the permanent fund. According to the US Census Survey of Government Finance, the combined long-term state and local debt per capita for NM was \$5,343 in FY05. The average for all states was reportedly \$6,930—an indication that NM has not over-leveraged its residents. Finally, the \$555 million available for capital funding in 2008 is far less than the \$2.5 billion requested. A review of the most critical projects was reviewed by Ms. Kehoe, and she stated that, according to Infrastructure Capital Improvement Plans submitted to DFA, tribal and local entities will request over \$1.3 billion for their capital needs.

Representative Lundstrom questioned whose priorities were included in the ICIP. She stated that it was often confusing when Legislators are given an ICIP list and a letter from local governments stating their top priorities. She stated she was under the impression that the two documents were similar but often found differences in the two. Rick Martinez, DFA Deputy Secretary, stated that DFA will continue to provide Legislators with the top five request letters submitted by local governments. Senator Griego stated he was the sponsor of a bill that created the efficiency savings fund. He questioned why Higher Education would request funds for a fund that already exists. He recommended that when Senate Finance and House Appropriations and Finance Committees discuss this project, they question if the fund will work for HED needs. Representative Moore questioned if money is set aside for general fund projects and the procedure for when bonds are sold. Representative Salazar stated that funding of projects becomes confusing when multiple funding sources are used. In many cases multiple funding sources have different expiration dates and stated that some sources are set to expire. Such instances are often unfortunate for the entities doing their best to complete projects.

Representative Bratton stated that the ICIP should be followed rather than asking local communities to prioritize projects via letter. Representative Sandoval stated that non-profits should have an agreement with the city or county before they can request funds.

The committee adjourned at 5:30 p.m.

#### **December 7, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Thursday, December 7, 2007, at 9:30 a.m.

The following LFC members were present on December 7, 2007:

Senator John Arthur Smith, Chair; Representative Luciano “Lucky” Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom, Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Ben Altamirano (for Timothy Z. Jennings), Sue Wilson Beffort, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson, Carlos Cisneros, and Pete Campos. Representatives Ben Lujan, Rhonda King, Kathy McCoy, Joni Gutierrez, Dan Silva, Mimi Stewart and Antonio Lujan attended the meeting as guest

legislators.

### Report of the Public School Funding Formula Task Force

Representative Stewart demonstrated a fictional district funding example. Stewart explained the benefits of the proposed formula including the simplicity of fewer coefficients, and less incentives for formula chasing. Representative Stewart explained that the primary drivers of the new formula were coefficient values assigned to poverty and language. She emphasized that once student counts were audited, there were fewer chances for mis-funding districts with the new, simplified formula. The new formula funds special education through assigning an average value for special needs demographics statewide. Representative Stewart noted that the state's average identification of special education students was significantly higher than the national average; in one particular district, the rate of special education students identified was as high as 34 percent of all students in that district. National rates of identification are approximately 12-14 percent, with a New Mexico range of 9-34 percent. The state's overall average is between 15 and 16 percent. The state's rate has been declining, in part due to IDEA prescribing more stringent interventions.

The new formula would fund special education based on census-based, average rates, at approximately 16 percent. Federal education officials have been reviewing states where special education is incentivized (bounty funding) to determine if over-identification exists. The task force proposal would fund the state average level of 16 percent, holding harmless those districts exceeding the average for the first year in order to move students out of special education programs. The proposal includes a recommendation for a special education contingency fund to assist districts with those students associated with extraordinary costs of 3-4 or more times the average costs to educate students.

The proposal includes a new, re-organized T&E mechanism, as well as a new methodology for funding growth units. In terms of accountability, the funding formula contractors looked at the current method and suggested initiating a relationship of the EPSS plans to student performance.

Representative Stewart described the task force's intention of bringing forth not only a new funding scheme with incremental funding necessary, but that the task force wished to provide novel means to raise the increment of \$320 million. Representative Stewart stated the recommendation included the "closing" of tax loopholes, including higher tax rates in several areas. These included: making tax rates for oil parallel with natural gas rates, strengthening tax laws on consolidated/combined reporting to increase taxes paid by out of state corporate entities doing business in New Mexico, eliminating the royalty deduction for protection on drilling on state and federal land such that it is parallel with private land royalty rates and lastly removing yield control for the half mil school levy. These initiatives would have a combined effect of raising \$130 million. Other funding ideas included increasing the portion of usable interest in excess of 5.8 percent from the land-grant permanent fund using the five year average method, increasing the appraised portion of property tax assessments from 33 percent to 40 percent and gross receipts tax rates.

Senator Asbill stated that the new proposal would address the issues that were brought forward with the Zuni Lawsuit. One item that has been eliminated was the potential to chase funds through

T&E. Sen. Asbill stated that the new formula would place the accountability at the local district level.

Representative Saavedra asked a follow-up on the reasons special education rates are significantly higher than the national average. Representative Stewart replied that in many cases, students fell behind for reasons other than disabilities, and were then identified as special education students. Representative Stewart went on to explain that the change to a census-based method would reduce this practice.

Senator Altamirano asked whether charter schools were incorporated into the new formula. Representative Stewart stated that there was a cost benefit to charter schools approaching 150 students in size and that the task force intended to reduce small enrollment schools. The charter schools would fall under a slightly different formula than the other public schools. She went on to say that since there was a significant range of special education rates at charter schools, ranging from none to 100 percent, the formula for charter schools would incorporate the actual special education numbers reported.

Representative Varela asked whether legislation would be necessary to enhance education revenue streams. Representative Stewart stated that all would need legislative enactment. Representative Varela asked whether the changes would be earmarked for education specifically. Stewart explained that the constitutional changes would be earmarked, but that it was preferred that the other initiatives would be as well. She elaborated that it would not necessarily be beneficial to change the funding formula in the event that there were not sufficient subsequent incremental funds; and adding that there would be losers under the new formula and that the incremental funds would be used for this support. In effect, Representative Stewart preferred full funding of the new formula. Representative Varela asked a follow up question on the needs of local autonomy, as well as how the new formula weighted vocational education. Representatives of the task force explained that the new formula would increase vocational education from 1.05 to 1.25. The representative stated that business constituencies made clear the necessity of increases for vocational education. Representative Varela asked whether STARS would be a vehicle for providing accountability going forward. Representative Stewart explained that the contractor identified the EPSS element as a more effective method of tracking sufficiency through a statutorily prescribed definition. Representative Varela explained how highly the Legislature valued independent, external oversight within reason. Representative Stewart explained that the EPSS process would be instrumental in incorporating accountability through integrating the EPSS plans with the budget approval process at PED. Representative Varela asked about revelations from LFC sampling of special education numbers. Representative Stewart stated that similar questions arose when the task force asked PED how they scrutinize districts when they are reporting 34 percent special education participation. She replied the department stated, they “just didn’t have the staff.”

Senator Beffort explained that it was alarming to hear of districts’ over-identification of normal children as special needs children and that it was detrimental to students’ self esteem in the long term when these students were faced with the stigma of a special education. Senator Beffort remarked that the suggestion of identifying oil and gas industries twice within the revenue raising assumptions would be detrimental as gas and oil had already sustained recent reductions. She

remarked that the revenue side of the equation would be better handled by finance and tax committees.

Representative Moore stated that he felt that for many years, the incremental spending in education did not make sense and that staff qualifications would be funded directly under the new system. The new coefficients would make it transparent and accountable for directing funding toward legislative intent.

Representative Salazar asked where performance came into the equation. He stated that the formula could not be a panacea for school reform. He stated that the initiative would be driven by educators and that effective educators would be motivated less by the funds available and more for the rewards that accompany the profession. Representative Salazar illustrated the point with an example of a local school that had stellar results, while funded at lower levels than larger schools.

Representative Lundstrom identified the superintendent from the Gallup-McKinley district who stepped forward and endorsed the new formula. Representative Sandoval identified parent involvement as a key element of success, independent of funding levels. He remarked that dropout students were a focus; however, bright students should be addressed as well.

Senator Rawson asked a follow-up question regarding the need, going forward, of funding deficiency and supplemental amounts for small districts using the new formula. Representative Stewart explained that the new formula incorporated this and that the levels for smaller districts would be higher than they have been in the past, reducing the need for supplemental funding.

Chairman Smith concluded that concern existed regarding the large percentage of special education students identified and requested a list by district be provided. Smith stated that the actual mechanics of the funding formula were probably not widely known by all legislators, but that the amount of money in education required getting up to speed. Chairman Smith noted the wide participation of various groups in producing the formula proposal and explained that there needed to be legislative efforts to make decisions in a fiscally prudent manner, independent of popular sentiment. He identified the necessity of protecting the education tax base and going forward responsibly when making education decisions. Similarly, he applauded the task force's efforts to identify revenue sources; Chairman Smith presented the dilemma of funding levels available in the state this year.

Dr. Garcia, the Public Education department Secretary and Don Moya, the Assistant Secretary of Finance, presented the budget requests for the Public Education Department and Public Schools Support. Highlights of the requests include: The PSS request included no incremental amounts for compensation funding, the transportation budget included a \$5 million increase for fuel, a large increase for the instructional materials fund, a significant increase in Pre-K and a doubling of funding for the breakfast program.

Representative McCoy questioned the school support budget and how students are selected for vocational education programs. Secretary Garcia stated that students self-select for this type of program and for other apprenticeship programs. She stated that these programs have been included as part of the high school redesign initiative and that Federal funding has been received



for vocational programs in the amount of about \$9 million.

Representative Saavedra suggested that teacher assistants could fill in for teachers to eliminate the need for substitutes. Representative Saavedra explained that when the teachers are absent, the teachers' assistants are up to speed on the curriculum and informed regarding the lesson plans and students' needs. Secretary Garcia stated that she would consider this proposal in the rulemaking process.

Speaker Lujan questioned the transportation costs and fuel estimates and budgeted rates for the department. The Secretary stated that additional funds are necessary to support diesel fuel cost increases and alluded to the volatility of gasoline prices in making the anticipation of cost difficult. Speaker Lujan stated that fuel costs are less in the southern part of the state and questioned a one size fits all approach to cost estimates. The Secretary stated that emergency funds are available for these purposes and that allocations are usually enough to support the need.

Representative Varela noted that the 11 percent recurring increase is high and does not include compensation. He requested that these amounts be included in the request as soon as possible so that the full cost can be estimated and addressed. He questioned the salaries of blue collar workers in the districts and stated that their compensation should be increased along with other staff. The deputy secretary stated that staff will provide that information. Representative Varela stated that the department employs 209 permanent FTE, is requesting additional FTE to a new level of 228, while currently having 55 vacancies. He questioned recruitment problems and why the new FTE are requested. Secretary Garcia stated that the department is so specialized that additional persons are requested though other vacancies cannot be filled. She stated that the department did not apply a vacancy rate because attracting and retaining qualified educators continues to be difficult. Senator Rawson asked about the hiring by PED of a new sports coordinator. Secretary Garcia explained that the position will be responsible for developing student interest in higher education as well as assisting students in attaining athletic scholarships. The position is being jointly supported by HED and PED, with PED paying 90 percent of the individual's salary and HED supporting the remainder.

HED's Tanya Garcia stated that dual credit rules are currently being revised throughout New Mexico, and that changes in dual credit legislation (SB 943) involve determining how much of a financial impact the program will have on the 2008-2009 school year. She stated that clearer data is needed to determine the impact and stated that information will be provided as it becomes available. Senator Altamirano questioned the implementation of the dual credit program to which Secretary Garcia stated that the program only has yet to be signed off on and that approval will occur before the legislative session. She stated that some students have chosen to pay for their own university programs, and some are paying for programs such as remedial courses, which is not the intent of the program and should be prevented. She stated that the program was intended to allow high school students the opportunity to enroll in courses not currently available at their high schools. She stated that the agreement will save money overall and will provide a more meaningful education for students.

Representative Varela questioned PED's role in developing the funding formula proposal. The secretary stated that her staff had not been a part of the funding formula task force. She stated that

a basic program should be implemented for every student regardless of district or locale. She stated that PED had responded to proposals but weren't a part of the initial development. Senator Smith acknowledged a potential liability in the task force having identified potential inequity in the existing funding formula. With the task force's recommendation now including a new formula methodology and change in funding levels, the state could be at a disadvantage from a legal perspective were it to disregard the task force findings.

Secretary Garcia stated that PED still has issues concerning the new funding formula and presented the following concerns: the basic program hasn't yet been defined and the menu of options presents a local control issue; whereas all students should have access to the same programs. She questioned whether the new monies will be beneficial, that more enabling legislation is needed, and that the program should have less local control. Additionally, she stated that the definition of sufficiency is still lacking, that transition programs are needed for special education, that accountability and results will vary by district and that not all kids will have access to services as programs will be chosen by local districts. She reported that the executive hasn't yet issued support of the funding formula and questioned what the basic program will be. She stated that original estimates for the proposed sufficiency definition required \$800 million in funding; as the estimate has been lowered, she questioned whether sufficiency had been sacrificed.

#### Valencia County Transportation Issues

Janet Jarrod, along with Senator Sanchez, made a presentation on behalf of a Valencia County delegation, to discuss transportation issues in Valencia County. She stated that Department of Transportation (DOT) projects threaten the resources and traditions of the area. She reported that 6,700 acres had been annexed by Belen and that proposed freeways would divide and constrict their community. Additionally, citizens had no voice in development and transportation plans.

In response to Senator Carraro, the funding of the roadway for \$1 million was within the executive's capital outlay. The federal government is starting to secure mortgages and is not sure if anything can be done at the state level.

Senator Griego voiced concern over the annexation of Belen properties to create multi-million dollar sub-divisions. The concern over these sub-divisions is that annexation had occurred without final zoning projections. Rangeland has been slated for development without sufficient water rights. Proposed highways will cut through rural communities, additional wastewater plants will be needed and all available water will be necessary to support development. Senator Sanchez stated that transportation plans have changed and now require even further extra-territorial lands. Condemnation actions have been brought before city councils however, rural areas don't have adequate representation within city councils.

Representative McCoy stated that similar developments had occurred in the east mountain area and that her community had no voice in the "shoe-string" annexation that had occurred into the next county. She stated that this type of annexation should be illegal, and promised to assist Valencia County.

Representative Antonio Lujan stated that 83 percent of county and other roads are dirt and gravel,

and stated that citizens would like these roads maintained before money for new roads is appropriated. He stated that the community's concerns should also be addressed to the local government. Speaker Lujan reiterated that the community should have a voice in the process. Senator Sanchez stated that development is occurring without necessary infrastructure and that capital outlay money is being used to fund roads only in rural areas. He reiterated that the area's culture should be considered to preserve the quality of life.

Senator Altamirano questioned whether this development was part of the DOT's five or ten year plan. Ms. Jarrod stated that a few parts of the development have been made part of DOT's plans, and that the group is asking the state to look at large and destructive projects and allow local communities to have a voice. Ms. Jarrod asked the legislature to deny funding to the initiative as the only way to prevent the development.

Senator Smith stated that a change in the use of land is occurring and that population pressures are causing the need to develop these lands. Additionally, he alluded to sub-division abuses before the adoption of the sub-division act. Ms. Jarrod stated that private property, tribal lands, and federal lands surround the area to be developed and should be preserved. She stated that the land in question was facing bankruptcy before it was bought out of receivership and that citizens don't have the same type of access to policy and lawmakers that the big corporation which bought the property had. Senator Smith stated that high-density development is very profitable and that this change from low-density development is difficult to experience and noted the major problems funding transportation. Senator Smith noted little optimism concerning the issue and that it is up to the DOT to delegate which funding goes where. He stated that inexpensive land is extremely lucrative to developers and drives up the prices of land for everyone. He voiced his personal concern about the misuse of land and hoped that their local government would be more attentive. He noted that the annexation of more than 600 acres was irresponsible and that delay, but not cancellation, may be possible. Senator Griego stated that in terms of increment tax financing, adverse affects would occur as in the Mesa del Sol project.

#### Department of Transportation

Rhonda Faught, Cabinet Secretary, introduced the department's deputy secretaries, noting the department's vision and recent accomplishments. She stated that citizens want increased public transportation and alluded to last year's extreme weather conditions and the dedication of NMDOT employees. In addition, she reported the following items: a 16% reduction in traffic fatalities over last year, decreases in DWI fatalities, highway and bridge improvements, reduced green house gas emissions, increased rider-ship of the Rail Runner and park and ride systems, awards received by the department, the construction of two new rest areas, the distribution of road user revenues and the status of the road fund outlook conducted in August 2007.

The department's budget request totaled \$806.6 million, with revenues totaling \$448 million and federal revenue estimates totaling \$358.6 million. The department's salaries and benefits operating budget was below the actual costs incurred. Currently, agency vacancy rates are at 12.5 percent and a 6 percent vacancy factor was applied in developing the budget request for FY09. Secretary Faught reported that legislation passed within the past three years now requires the department to pay 80 percent of insurance costs for employees with salaries below \$50 thousand. This has had a significant impact upon salaries and benefits in addition to increased overtime costs

due to increased floods and snowfall. Gary Giron, the deputy secretary for business support, reported increased funding needs for agency personnel and benefits costs.

Ms. Faught stated that GRIP legislation passed in 2003 included the commuter rail corridor, and was a part of the governor's election platform. The \$75 million in Federal funds originally anticipated for the project were never realized. The secretary noted increases in construction costs due to inflation, flat revenues and a continued decline in federal funds have created a gap in funding revenue with GRIP being under-funded by \$494 million. The Secretary stated that the Rail Runner, currently in operation between Belen and Bernalillo, has been in operation for the past seventeen months utilizing federal funds. An estimated 2.2-2.5 thousand people utilize the service daily. Lawrence Rael, Executive Director for the Middle Rio Grande Council of Governments (MRCOG) reviewed the state of Utah's implementation of a commuter rail service similar to the Rail Runner, with costs reportedly \$500 million above the Rail Runner. It was acknowledged that federal funding was available for the Rail Runner, but the application process is slow, laborious, and competitive. As such, other funding sources were identified and used for this project. The Secretary stated that during the 2006 legislative session \$393 million had been identified as being needed for the project with current estimates at \$400 million. She assured the committee no more than \$318 million in GRIP bond proceeds will be spent. The remaining funding will come from other sources.

Secretary Faught provided a summarization of GRIP construction projects. Currently the NMDOT has awarded \$687 million in contracts. In relation to GRIP, the secretary discussed contracts, program needs, funding shortfalls, funding authority, the Rail Runner and the HM 35 committee.

Senator Smith questioned environmental restrictions concerning night crew construction. The Secretary stated that road work is done at night to prevent obstructing traffic, and stated that she is unaware of any related environmental issues. Concerning air quality, the Secretary stated that restrictions are the same for both commuter and construction vehicles.

Senator Carraro referred to a bill he sponsored concerning tire spikes for wrong-way drivers. The Secretary responded that NMDOT is looking at ways to reduce the problem and that a pilot program is in place as tire spikes are not acceptable in terms of federal regulations; were tire spikes implemented, the state would stand to lose federal funding. Senator Carraro requested documentation concerning federal restrictions.

In regards to the Rail Runner, Senator Carraro reported that the NMDOT and the executive were uncooperative in the preliminary stages. He referred to rising costs associated with the Rail Runner and stated that the perfect storm scenario referred to by the secretary was a misnomer as it assumes that planning and risk assessments were performed. He stated that this type of project would have been worth the expenditure for a major metropolitan area though not necessarily for New Mexico. Concerning construction costs to make room for the Rail Runner corridor, including diversion lanes, the Senator noted that costs could have been planned better. In response, the Secretary stated that the entire project cost is \$400 million dollars, a figure which hasn't increased since 2004. Lawrence Rael of MRCOG stated that the diversion lanes cost less than \$500 thousand to which Senator Carraro stated he had heard an estimate of \$5 to \$6 million dollars. Mr. Rael stated that CMAC funds were appropriated to run the Rail Runner, and that there are six

remaining months to utilize those funds. Other funds have been discussed to replace those funds, though a funding mechanism proposal hasn't been submitted. Senator Carraro noted that the state's GRIP program is \$494 million short, and that long-term sustainability has been discussed by HM 35. He stated that funding for the Rail Runner has deleted the availability of GRIP money for other projects, to which Secretary Faught indicated she disagreed.

Senator Beffort raised concerns over the state's Ports of Entry, trip tax and inspection stations. Secretary Faught reported that every truck must pass through the Motor Transportation facilities and that assurances are in place to make sure that fees are paid. Representative Moore stated his appreciation of the department's efforts and questioned the 64-87 project outlook. Secretary Faught stated that finishing GRIP projects is of highest priority to the department.

Senator Bratton related his concern that GRIP projects would be started without adequate funding, and questioned the reported funding shortfall projected at \$494 million. Deputy Secretary Robert Ortiz stated that the funding shortfall is due to changes in scope to many of the projects and that projects may need to be revised in order to make up for shortfalls. Senator Bratton requested documentation on transportation projects whose costs have increased significantly, outside of legislative projects. Secretary Faught stated that anticipated federal funds would have covered extra project costs due to scope change.

Concerning the recommendations under House Memorial 35 for revenue enhancements, Representative Varela requested a statement from the Governor so the public would have an understanding of the executive's view.

Representative Silva reported that inflation had increased by 34 percent since 2004 and referenced huge increases in the interstate highway system. He expressed concern that a number of projects had experienced cost increases due to changes. Concerning the changes in projects, Secretary Faught stated that changes were minimal, if any, and that inflation increase caused increases in construction costs. Concerning the Rail Runner, she stated that the congressional delegation was in support of the project and enacted legislative language for funding. She stated that while the \$75 million in federal funding will not be forthcoming, other federal opportunities are being explored. Mr. Rael reminded the committee that federal authorization does not go hand in hand with federal appropriations. Secretary Faught stated that the Rail Runner operating expenses are currently subsidized by the federal government through the use of a three year grant for \$30 million; FY09 is the last year of this subsidization. In response to the Representative's questions, Mr. Rael stated that Rail Runner easements are between 50-250 feet and total approximately 3,500 acres over the 200 miles of track purchased. He also responded that analysis hadn't been done to determine the number of state employees utilizing the system or mandates requiring the state employee to use the train.

The discussion and review of possible LFC committee sponsored legislation was held over until the next committee hearing.

#### Miscellaneous Committee Business

The minutes from the November 2007 LFC were formally approved and it was stated that the LFC audit is anticipated by the December 15<sup>th</sup> deadline. The committee's exit conference was completed without findings though it has not yet been released by the auditor. A review of the

LFC budget status was presented to the committee for their information.

The committee adjourned at 5:30 p.m.

### **December 8, 2007**

Senator John Arthur Smith, chairman, called the Legislative Finance Committee (LFC) meeting to order on Friday, December 8, 2007, at 9:30 a.m.

The following LFC members were present on December 8, 2007:

Senator John Arthur Smith, Chair; Representative Luciano “Lucky” Varela, Vice Chair; Representatives Don E. Bratton, Patricia Lundstrom (for Rhonda King), Brian K. Moore, Edward C. Sandoval, Jeannette O. Wallace, Nick L. Salazar, and Henry “Kiki” Saavedra; and Senators Ben Altamirano (for Timothy Z. Jennings), Sue Wilson Beffort, Phil A. Griego, Joseph J. Carraro, Leonard Lee Rawson, Carlos Cisneros, and Pete Campos. Representatives Rhonda King and Joni Gutierrez attended the meeting as guest legislators.

#### **Staff Reports:**

##### **Legislature**

Cathy Fernandez, Deputy Director, and Sylvia Barela, Administrative Services manager, presented the FY09 budget request for the legislative branch. Ms. Fernandez explained that the amounts were provided by the Legislative Council Service (LCS) and Legislative Education Study Committee (LESC) for all requests except the Legislative Finance Committee (LFC). Representative Varela inquired as to the 9.5 percent increase in the LCS request. Ms. Barela referred the question to LCS. Several members commented on the increased number of committee meetings and discussed alternatives to combining committees. The committee discussed reasons for consolidating the number of interim committees to reduce workload for members and increase the quality of staff analysis available for the meetings. It was determined that the discussion should be referred to the Legislative Council.

Representative Moore asked if additional economist positions were included in the LFC budget. Ms. Barela informed the committee that the LFC request included an additional economist and a fiscal analyst position.

LFC staff presented the legislature’s FY09 budget request, which included an overall increase of 5.9 percent. LFC staff reported that the Legislative Council Service budget request is simply transmitted through LFC staff. Director Abbey stated his belief that the LCS increase is for research staff and librarians.

Representative Lundstrom asked what the nonrecurring cost included, and Director Abbey responded that the amount includes the legislature’s feed bill cost.

##### **Review of Special, Supplemental and Deficiency Requests**

Brent Earnest, LFC Senior Fiscal Analyst, stated that agencies requested \$105 million from the general fund and \$7.6 million from other sources for special, supplemental and deficiency

appropriation requests. The LFC staff recommendation is \$137.6 million from the general fund and \$169.9 million from all sources. The LFC staff recommendation from the general fund includes \$110.6 million for specials, \$26.4 million for supplementals and \$0.6 million for deficiencies.

Mr. Earnest highlighted the following requests: the Supercomputer initiative; \$1 million for the general election for Secretary of State; \$10 million for JTIP—an incentive program run through the Economic Development Department and a \$1.3 million recurring item to the Human Services Department for a food stamp penalty assessment. Mark Weber explained that the federal government assesses a penalty to the state for errors, and that the penalty should be expected as an HSD recurring expense.

Representative Lundstrom stated that the college affordability endowment fund appropriation should include adequate accountability language. Representative Lundstrom also questioned the status of the Motor Transportation Division. Renada Peery, LFC Senior Fiscal Analyst, reported that MTD has a 17 percent vacancy rate, and that the division was under a hiring freeze until the end of FY07. Concerning the \$25 million recommendation for highway maintenance, Representative Bratton stated that language should be made very specific so that funding can only be used for maintenance and not for the expansion of new transportation projects.

#### Review of Information Technology Requests

Aurora Sanchez, LFC Senior Evaluation Manager, and Manu Patel LFC Deputy Director, reported their review of 33 requests totaling \$72 million; LFC staff recommends \$15.2 million for these requests from all funding sources. Recommendations were based solely on need and not on the quality of submission. It was noted that TRD submitted the most comprehensive request. The Replacement of equipment, staff and training requests were not included as those are funded in the base budget or special appropriations. It was reported that DFA shows \$29.6 million prior year IT appropriations that have not yet been allotted.

The use of independent validation and verification on IT projects that are not critical, highly visible, complex, or where the agency does not have the required expertise, adds unnecessary costs to projects. It was reported that \$11.2 million was appropriated to PED for the Student Teacher Accounting and Reporting System (STARS) program over the last three years and that the project remains a concern to the LFC because PED has not met its one critical performance measure—to provide timely and accurate 40<sup>th</sup> day data to the legislature. LFC does not recommend any additional funding for STARS.

It was noted that the DoIT initiative, Wire NM, requested an additional \$5.8 million and had received \$41 million since 1998. Since they still have several million dollars available, the LFC staff does not recommend any funding this year.

Retiree Health Care Authority does not have staff capacity to implement the system and staff recommends working closely with DoIT to plan, manage, and implement the system.

Concerning the Supercomputer initiative, it received \$14 million last year and SGI had offered the state a 60 percent discount which was awarded through a competitive procurement. Requests for this project are for operations and capital.

An additional \$2.5 million was recommended for Statewide Human Resource Accounting and Management Reporting (SHARE) system issues. During a recent LFC review, it was recommended that DFA fix SHARE issues and that funding should be requested to address those issues. The State Treasurer's Office, the State Purchasing Division, and the Department of Health all requested funding for SHARE-related issues. The State Treasurer's Office currently cannot automatically calculate interest on the state's self-earning accounts. Also, they need funding to be able to convert the BAI file to a paid check file. Additionally, the State Purchasing system is not properly configured. The Department of Health needs funding to integrate timekeeping systems at some facilities to reduce data redundancy and manual operations.

The LFC recommendation includes the replacement of TRD's motor vehicle drivers' license system. Last year, HAFC recommended \$10 million but TRD turned the money down. It was reported that the system is so old it cannot accept revenue codes for donor services on driver's licenses, and that it uses 1960s technology. The system affects about 1.6 million drivers who would be affected if the system went down. A new system will address the ability for people to register as donors online for both driver licenses and identification cards. If not fully funded, the project will cost about \$13 million.

Senator Rawson questioned the value of investing in IT if we are not making state government more efficient. Ms. Sanchez stated that in some cases we have added efficiency, but insufficient planning and not changing business processes reduces any potential for staff efficiency. She stated that agencies must go back and rethink what they need to do to become efficient. Senator Rawson suggested slowing down IT investments until a plan can be established to get better results. Senator Smith stated that the LFC request is much smaller than the agencies' request, which shows that IT scrutiny is in place.

Senator Griego stated that major United States corporations get their systems working right away because they are more focused on the bottom line than government is. He stated that the drafting of better contracts is necessary to guarantee performance from IT vendors. Holdback provisions are a positive step but do not go far enough to ensure contractor accountability.

It was stated that Agency Compensation will be recapped in executive session.

#### Report on Performance-Based Budgeting Implementation

Brent Earnest, providing an update on the implementation of the Accountability in Government Act and performance-based budgeting, stated that staff are working to give the committee better information about agency performance. Staff will continue to focus on the report card project, which should provide easy access to data about program results. Currently, 37 percent of programs were rated green, 43 percent were rated yellow, indicating mixed performance and 20 percent were rated red, showing a need for attention. All report cards will be included in LFC's Volume 1.

#### Budget Adjustment Requests

Greg Geisler, LFC Principal Analyst, stated budget adjustment authority is provided in the general appropriation act and LFC staff will present recommended bar authority to HAFC. He reported the staff concern that agencies are trying to use capital for operational expenses and agencies are



increasing program budgets with questionable revenue assumptions. Additionally, some agencies are using BARs for large increases in their operating budgets that would not be necessary if they submitted more accurate budget requests to the legislature. Catherine Fernandez, LFC Deputy Director, pointed out that granting BAR authority to agencies is one of the legislature's powers.


Representative Varela urged the committee to seriously consider how much BAR authority is granted to agencies and stated that transfers among the four budget categories should be scrutinized. He stated that when the number of categories was collapsed from ten down to four, it gave agencies more flexibility and for agencies to utilize excessive BAR requests indicates bad budget planning. Senator Altamirano stated that he is concerned about the use of capital funds to pay for operating expenses, and mentioned a recent example. The State Engineer was cited as an agency that had submitted BARs with questionable use of capital funds. Representative Bratton related his skepticism of agencies with large vacancy rates who requested FTE expansions. He stated that these agencies may be requesting additional FTE as a way of increasing salaries without regard to legislative intent. Senator Rawson complimented the LFC staff for their budget analysis, and pointed out that granting expansive BAR authority takes away from legislature's credibility and power. Director Abbey explained that the governor can only veto BAR authority, reducing it but not adding to it. He recommended a close examination of BAR authority.

The committee moved into Executive Session at 10:21 a.m. to discuss budget development.

The committee moved into open session at 10:58 a.m.

Senator Smith moved to approve the FY09 Budget Recommendations, Representative Saavedra seconded the motion, and the motion passed with no objection.

The committee adjourned at 11:09 a.m.

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Senator John Arthur Smith, Chairman